

3 1761 11648560 8

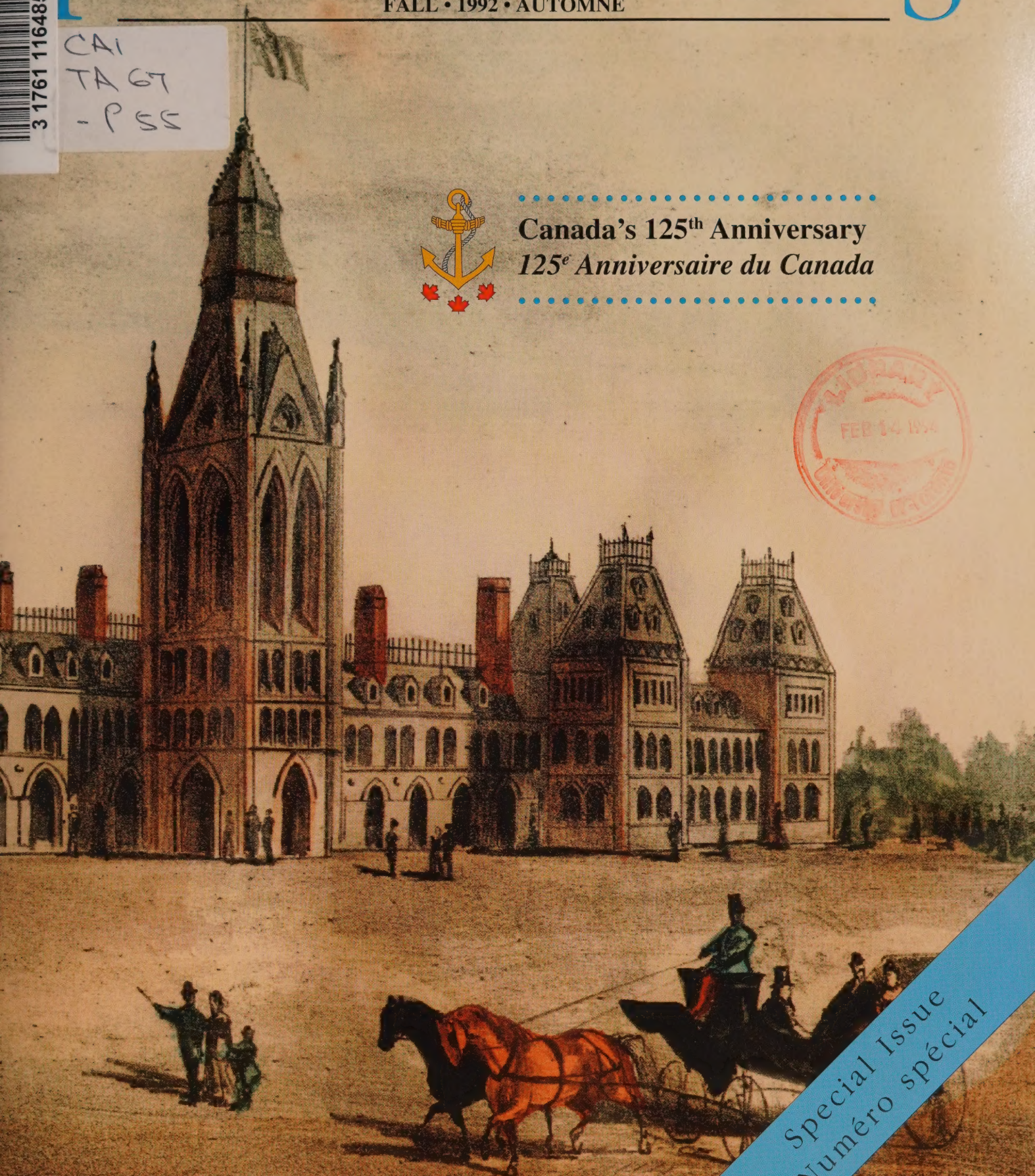
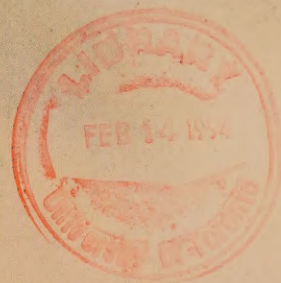
# P · O · R · T · U · S

FALL • 1992 • AUTOMNE

CAI  
TAGT  
- PSS

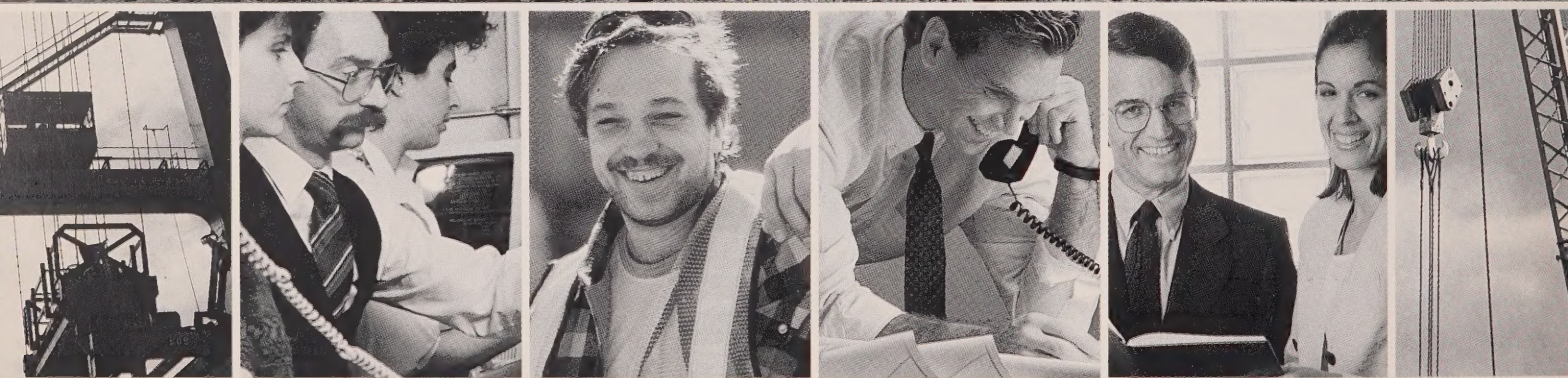


.....  
Canada's 125<sup>th</sup> Anniversary  
*125<sup>e</sup> Anniversaire du Canada*  
.....



Special Issue  
Numéro spécial





*Systems, Solutions, Partnerships*



Canada Ports Corporation



## ***A Farewell to Portus***

*It has been six years and 24 issues since Portus was first launched. In the many hundreds of pages contained in the journal's volumes, we delved in such diverse fields as port management, trade and transportation from near and afar. Some of our articles exposed Canada's position while others explored our trading partners' strengths and weaknesses.*

*Canada finds itself increasingly operating in a global environment. Our prosperity will be ever-more tied to our international competitiveness. Portus was proud to provide an intellectual forum for debate of topical issues, while at the same time securing a place for itself in history with articles on port development in days gone by.*

*As the country's economic landscape changed, so did Ports Canada's. The agency's changing priorities, needs and obligations make it difficult for Portus editors and contributors, who have given so generously of their time to produce the journal to date, to continue their efforts on a voluntary basis.*

*We will all miss the intellectual stimulation of publishing Portus, exploring new frontiers of knowledge and public policy debate. We are proud, however, to close with a special issue on our nation's 125th anniversary. As we cease publication, we must acknowledge the invaluable contribution of our writers without whose participation our accomplishments would not have been possible.*

---

## ***Adieu à Portus***

*Six années se sont écoulées et 24 numéros ont paru depuis le lancement de Portus. Dans les centaines de pages qu'ont contenues les volumes de la revue, nous avons approfondi nombre de sujets dont la gestion portuaire, le commerce et les transports, tant ici qu'outre-mer. Certains de nos articles ont exposé la position du Canada et d'autres ont traité des forces et faiblesses de nos partenaires commerciaux.*

*Le Canada évolue de plus en plus au sein d'un environnement global, et notre prospérité sera plus que jamais liée à notre compétitivité à l'échelle internationale. La rédaction de Portus est fière d'avoir fourni une tribune sur des sujets d'actualité, tout en relatant des pages de l'histoire du développement portuaire.*

*Le contexte économique de Ports Canada a évolué, à l'instar de celui du Canada. Les nouvelles priorités et obligations de notre organisme font en sorte qu'il est difficile pour l'équipe de la rédaction et ses collaborateurs, qui ont si généreusement donné leur temps à la préparation de la revue, de poursuivre cette collaboration à titre bénévole.*

*L'enrichissement intellectuel que nous ont procuré la préparation de Portus, l'exploration de nouvelles connaissances et l'examen de politiques officielles, nous manquera à tous. Nous sommes fiers cependant d'en clore la publication par un numéro spécial sur le 125<sup>e</sup> anniversaire du Canada. Il est maintenant temps de remercier nos auteurs de leur inestimable contribution, sans laquelle le succès de Portus n'aurait été assuré.*



COVER

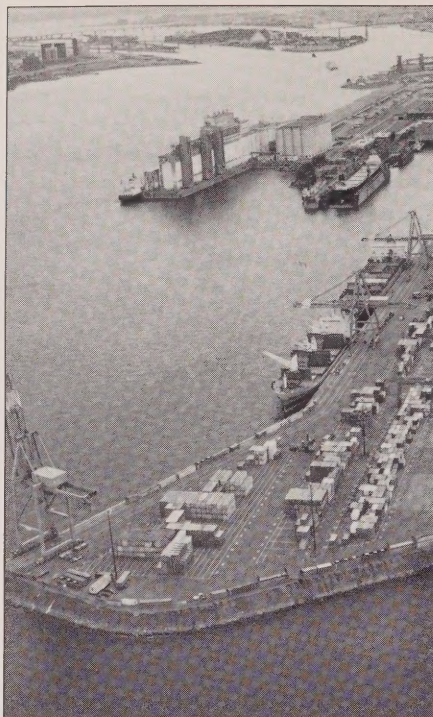
## An Alternative Ports Policy 6

With Canadian transportation facing increased competition, can the fragmented port structure continue to support Canada's trade objectives?

ARTICLE VEDETTE

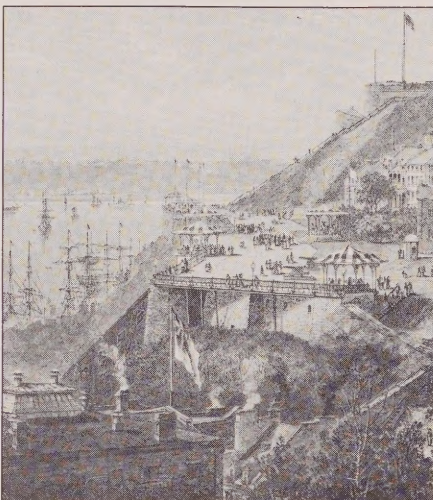
## Tour d'horizon de l'évolution portuaire 40

Réalisations et dilemmes:  
d'hier à aujourd'hui



## Law and Order 22

Providing Canada's major ports with the total range of policing, internal security and emergency preparedness activities.



Requests for republication or reproduction of articles from **PORTUS** should be directed to the Editor., **PORTUS**, Ports Canada, 99 Metcalfe St., Ottawa, Ontario K1A 0N6.



### 4 Across the Ports

### 13 D'un port à l'autre

### 14 Economic Restructuring

### 16 Transportation as an Instrument of International Competitiveness

### 18 Sustainable Transportation

### 20 Planning for an Uncertain World

### 25 From North of the Border

### 28 From South of the Border

### 38 A Remarkable Achievement of Canada's Transportation System

### 48 Facts and Figures

### 49 Faits et chiffres

### 50 Exposition historique à Port Saguenay

### 54 A City, a Port and a Story Worth Telling

### 56 Let's Pave the Way to Prosperity

### 60 Perspective and more... et plus...

Prière d'adresser au rédacteur en chef les demandes de réédition ou de reproduction d'articles parus dans **PORTUS**, Ports Canada, 99, rue Metcalfe, Ottawa, Ontario K1A 0N6.





PRIME MINISTER · PREMIER MINISTRE

I am pleased to join with Ports Canada and the readers of **Portus** in celebrating Canada's 125th birthday, as well as the fine tradition of port management that continues to be an essential component of our nation's economic success.

Canada's port system is a vital network of commercial links to our global trading partners. As a nation reliant on foreign trade, Canada requires the effective administration and management of its port system to ensure that we remain competitive.

As Canada celebrates its 125th birthday, it is appropriate that we reflect on the significant contributions that our ports system has made and will continue to make to our prosperity.

Je suis heureux de me joindre à Ports Canada et aux lecteurs de **Portus** pour célébrer le 125<sup>e</sup> anniversaire de notre pays, ainsi que l'excellente tradition de gestion portuaire, qui continue d'être un élément essentiel de la réussite économique de notre nation.

Notre système portuaire est un réseau vital qui nous relie à nos partenaires commerciaux du monde entier. Dépendant du commerce extérieur, le Canada doit pouvoir compter, pour rester concurrentiel, sur une administration et une gestion efficaces de son réseau portuaire.

En cette année où le Canada célèbre son 125<sup>e</sup> anniversaire, il convient de réfléchir sur la précieuse contribution que nos ports ont apportée, et continueront d'apporter, à notre prospérité.

*Jean Charest*

OTTAWA  
1992



# ACROSS THE PORTS

## Halifax

On September 2, 1992, the cruise ship *Crown Monarch* called at the Port of Halifax. The maiden voyage by the Commodore Cruise vessel precedes a surge of 23 more September calls. A total of 43 calls by luxury liners are expected at the Port of Halifax during 1992.

The 1993 cruise season is already heavily booked with 47 scheduled visits to the Port of Halifax. Port officials advise that Halifax's cruise industry is experiencing steady and solid growth, and that passenger activity contributes several million dollars to the local economy each year.

## Saint John

Harry Gaunce, chairman of the board, Saint John Port Corporation welcomed two new appointments to the board of directors. Bill Thompson and Ken Bourque are the new members, replacing Ed Cohen and Fernand Lanteigne. Mr. Gaunce thanked Mr. Cohen and Mr. Lanteigne for their valuable contributions to the port during their tenures on the board. Mr. Thompson is the general manager of the New Brunswick Salmon Growers' Association in St. George. Mr. Bourque is a Saint John businessman, most recently having been a partner in the customized steel fabrication business, Bourque Manufacturing.

Lykes Bros. Steamship Co. Inc. became the newest shipping line to call at the Port of Saint John with the announcement of a new direct service to South and East Africa. The new Lykes service is being offered in cooperation with Safbank Line Limited which had already been serving that trade. Safbank Line had introduced its service to Africa through Saint John in 1991.

Saint John is the only Canadian port that

offers this service which brings a Lykes vessel to the port every 18 days. With a diversified fleet of vessels, Lykes has trade routes worldwide between all US coasts and the United Kingdom and Europe, the Mediterranean, Africa, South America, the Red Sea, the Indian sub-continent and the Far East.

Construction of the Port of Saint John's fifth roll-on, roll-off ramp was completed at the end of August. The new quarter-ramp notch located at the bulkhead area between Rodney A and Berth 3 will benefit ships arriving at the forest products terminal at Navy Island. The ramp project got underway at the beginning of the summer season, shortly after the Port of Saint John ordered the demolition of a shed which had been located in the area.

## Belledune

The construction of the new wharf at the Port of Belledune was advanced sufficiently to allow for the placing of the 5,000 tonne-per-hour coal unloader on August 5, 1992. The wharf construction should be completed by mid-October.

## Montréal

Canada Maritime and Jadroplov have increased sailing frequency between Montréal and the Mediterranean to once every ten days from once every two weeks, with the launch of the Mediterranean Direct Service.

The new joint venture links Montréal to Livorno and Genoa in northwest Italy. The three containerships on the service also call at ports in Spain and Portugal. The introduction of the services means shippers benefit from greater frequency, more reliability and increased capacity.

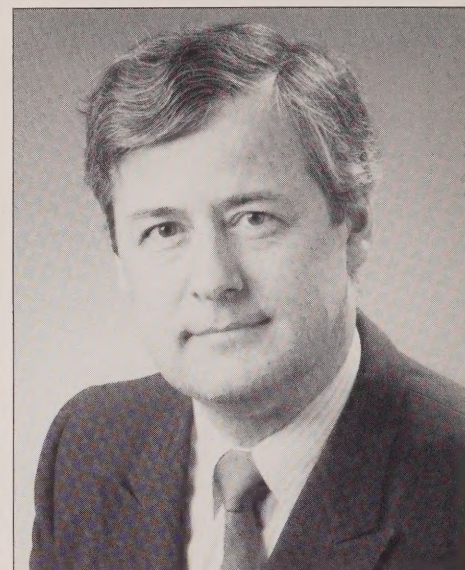
Three 800-TEU (20-foot equivalent unit) sister ships - Canada Maritime's CanMar Venture and San Lorenzo, and Jadroplov's Blokovo - sail between Montréal and the Mediterranean on the Mediterranean Direct Service. In Montréal, the ships call at Racine Terminal operated by Racine Terminal (Montréal) Ltd. Canada Maritime Agencies Ltd. is the service's representative in North America.

## Ottawa

The Honourable Jean Corbeil, federal Minister of Transport, recently announced the re-appointment of Jean Michel Tessier as

president and chief executive officer of the Canada Ports Corporation for a four-year term. Mr. Tessier has held the position since July 1987.

Prior to that, he was general manager and chief executive officer of the Port of Québec Corporation. Mr. Tessier has also lectured at McGill, Sherbrooke and Laval universities in marketing, transportation and administrative research.



Ports Canada

The Centre for Transportation Studies at the University of British Columbia chose Mr. Tessier the 1992 Distinguished Alumnus. He recently addressed the alumni and offered his perspective on career development, business issues and the future challenges facing transportation and logistics managers in the 1990s.

## Vancouver

A proposal to redevelop Ballantyne Terminal into a modern, multi-purpose facility was recently announced by the Port of Vancouver. As proposed, Ballantyne will become a combined cruise passenger and general cargo facility, with historic features of the 69-year old cargo terminal included in the design.

Ballantyne Terminal, which opened in 1923, is nearing the end of its operational life: the aging pier structure is deteriorating and does not comply with current earthquake standards; the four existing freight sheds are functionally obsolete and cannot accommodate today's cargo-handling methods and equipment. Additionally, Ballantyne's role as an alternate cruise facility, in its present form, does not satisfy the port's objective of providing first-class services and facilities for cruise passengers.

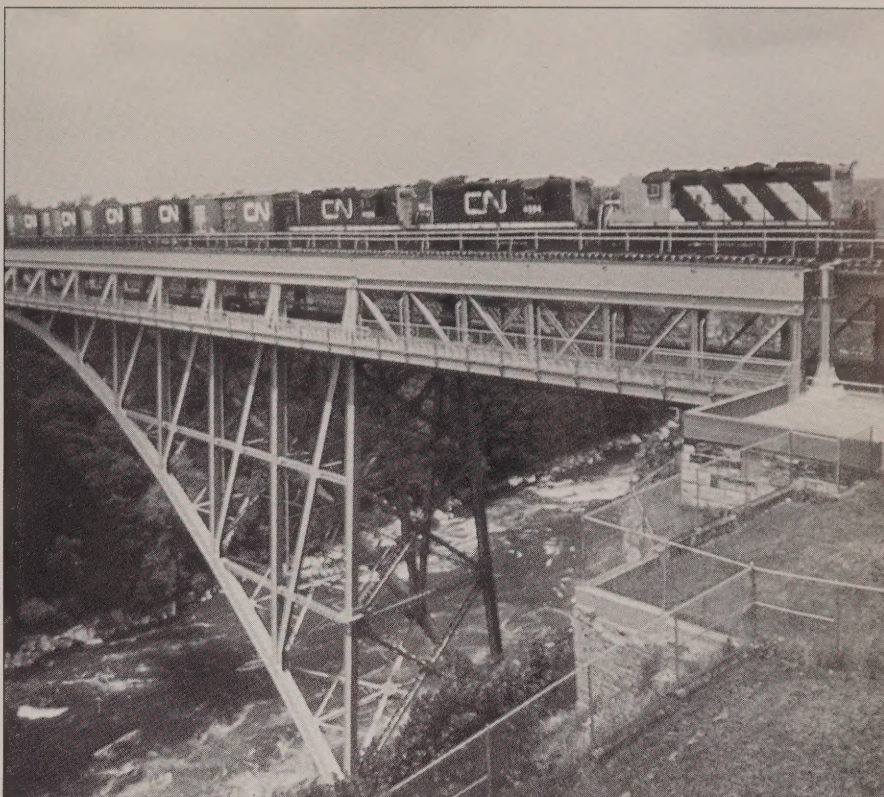


# Railways Plan North American Cooperation

**MONTREAL, QUEBEC, CN North America, Burlington Northern Railroad, Ferrocarriles Nacionales de Mexico and Protexa Burlington International** have signed an agreement to foster a seamless trilateral transportation network that can deliver better freight service to customers in Canada, the United States and Mexico.

They said that, by cooperating, they can increase mutual commercial opportunities in North America - a market of more than 360 million people with an economy the equivalent of US\$3 trillion.

CN North America, operates in Canada and the US. With headquarters in Montreal, CN is Canada's largest railway. Burlington Northern Railroad, with headquarters in Fort Worth, Tex., also operates in the US and Canada. Its rail system is the longest in North America. Ferrocarriles Nacionales de Mexico is Mexico's railway, with headquarters in Mexico City. Protexa Burlington International is an integrated rail barge service based in Mexico City.



Ports Canada

enable Ballantyne to continue serving as an alternate to Canada Place.

The Board of Directors has announced that John D. Wiebe, Ph.D., will serve as chairman of the Independent Project Review Panel to consider the proposal to construct a container facility as Roberts Bank. Dr. Wiebe has

served in various capacities in the environmental assessment and planning fields. The formation of an Independent Project Review Panel meets the requirements of the port's Environment Appraisal Procedures and Project Review Process. Other criteria include public meetings and preparation of an Environmental Assessment Document.

## Prince Rupert

The Honourable Jean Corbeil, Minister of Transport, recently announced the appointment of Robin Heather of Prince George, B.C., as a member of the board of directors of the Prince Rupert Port Corporation for a three - year term.

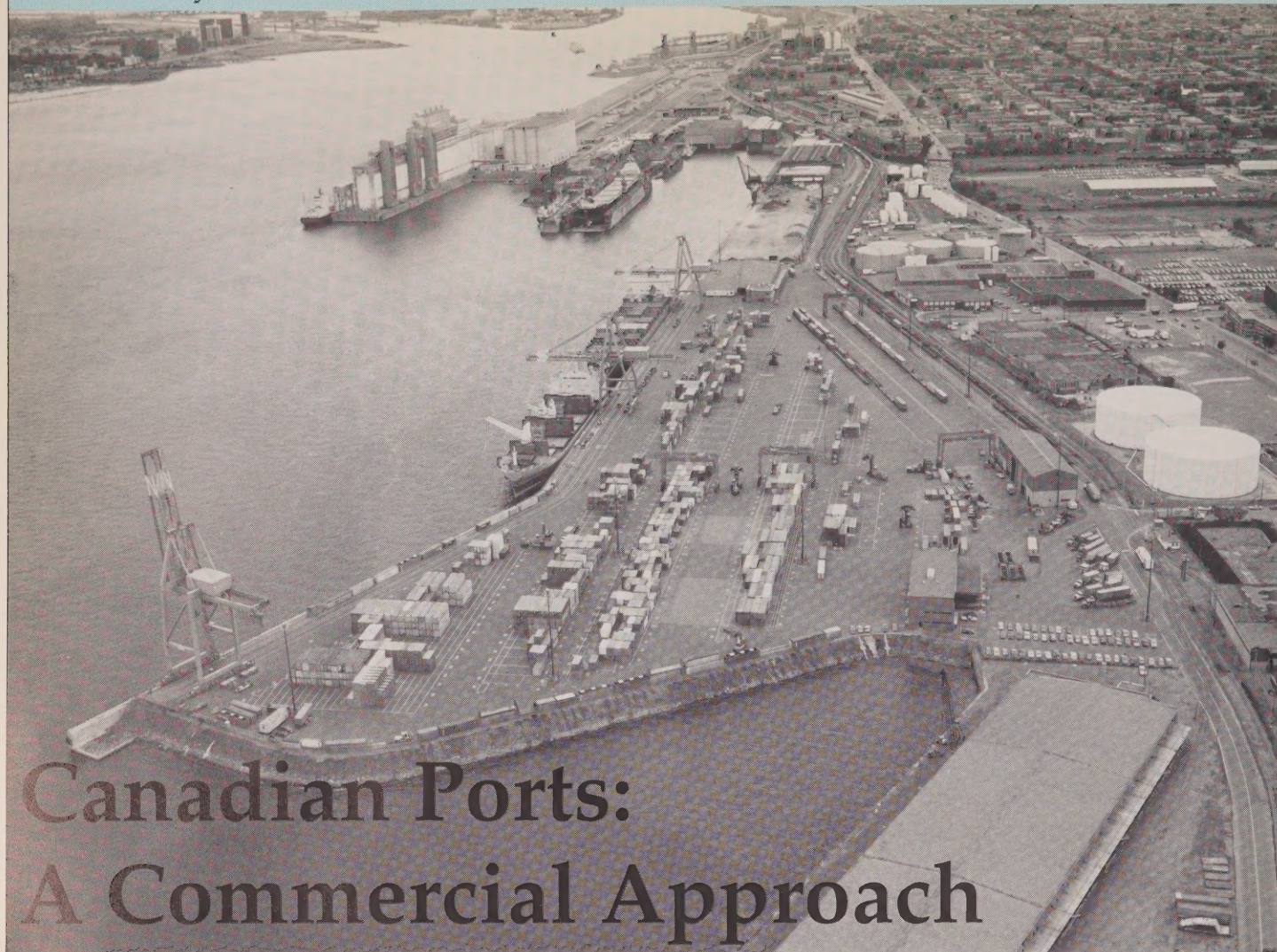
Mr. Heather, a partner in Prince George's largest law firm, is a past president of the Prince George Bar Association and a member of the Canadian Bar Association. He succeeds John T. Payne whose term has expired.

The Minister also announced the reappointment of John D. McNish of Prince Rupert to the board of directors of the Prince Rupert Port Corporation for a three - year term. Mr. McNish is president and manager of the Credit Bureau of Prince Rupert Ltd.

- Lisa Robertson

The redevelopment would include a single large warehouse, designed for efficient handling of general cargoes; specifically forest products requiring covered storage, such as wood pulp. The port is forecasting an increasing demand for suitable port facilities. As well, there will be an attractive, efficient new cruise passenger terminal which would





# Canadian Ports: A Commercial Approach

To meet the competitive challenges of today and tomorrow, further rationalization and commercialization of Canadian ports is required.

by M.C. Ircha \*

Within the Canadian federal system, constitutional responsibilities and authority is divided between provincial and federal governments. The 1982 *Constitution Act* provides the federal government with responsibility for ports and harbours. Despite this authority, the current administration of Canadian ports is anything but homogeneous. Rather, Canada's 365 commercially oriented ports are a diversified, multi-layered and loosely-knit mixture of Crown corporation ports (Canada Ports Corporation), harbour commission ports, Transport Canada Public Harbours and Ports, and private industrial harbour and wharf facilities. The common element among this

myriad of ports is their various reporting relationships to the Minister of Transport and the federal cabinet.

Today's global economics requires efficient international trade. Canada is not isolated; rather, it is part of a continental transportation system. The Canada - US border is virtually invisible in terms of trade. This creates competitive opportunities for Canadian and US shippers to use alternative ports via effective intermodal transportation systems.

The US, like Canada, is also a federal system. In terms of its ports, however, authority and responsibility rest at the municipal or regional level rather than the national level. This has led to extensive competition among US ports as each, often in

partnership with its state government by way of supporting subsidies and tax assistance, struggles to maintain and enhance its market share. Such competition is often at the expense of other nearby ports. Compare, for example, the recent misfortune of the Port of Baltimore, where the newly opened Seagirt Container Terminal is struggling to attract traffic, with the aggressive and successful marketing efforts of the nearby Virginia Port Authority at Hampton Roads.

In an earlier *Portus* article, Eric Heikkila argued that strictly autonomous ports in the US led to suboptimal resource allocation resulting from the under-pricing of port services (in a highly competitive environment) and the over-supply of facilities (*Portus* Spring, 1991).



Canada's geography dictates a need for local autonomy in port administration and operations. The current dilemma facing Canadian ports is the perceived need to balance central control (assumed to be essential for an economically efficient national system of ports) with the equality of economic development opportunity in all parts of the country. To a degree, the current national ports system reflects this dilemma.

In 1983, the *Canada Ports Corporation Act* established the nation's major commercial ports as Crown corporations both at the national level with the Canada Ports Corporation (CPC) headquarters in Ottawa and at the port level with local port corporations (LPC). Harbour commission ports and Transport Canada Public Harbours and Ports remained in place under this new legislation.

Following almost a decade of operation under the 1983 *Act*, are changes needed to the national ports system to enable Canada to compete effectively in the today's global economy?

## Evolution of Canadian Ports Policy

The present Canadian ports system is a product of its historical evolution. An administrative structure for ports predated Canada's Confederation in 1867. For example, the Trinity Houses of Québec and Montréal (established in 1805 and 1839, respectively), controlled shipping and navigation in the St. Lawrence River as well as the management of their respective harbours. Harbour Commissions were established under statutory authority from the colonial provinces.

Section 108 of the *British North America Act* of 1867 (now the *Constitution Act* of 1982) placed navigation and shipping under the exclusive jurisdiction of the federal government. In 1868, the Department of Marine and Fisheries was created. Most harbours, originally incorporated under *Acts* of the former colonial provinces, came under the jurisdiction of this new department. The department regulated public harbours and ports, but, with limited staff and vast geographic distances between ports and the national headquarters in Ottawa, it was not surprising to find a variety of port and harbour commissions established.

By the 1920s, the Canadian port scene included harbour commissions, some under the direct control of the federal port administration, and others more independent and oriented to municipal administration. The federal

administrative structure was severely limited. At the harbour commissions themselves, administrative efficiency was hampered by a political patronage system that included wholesale personnel change following national elections.

These problems led Sir Alexander Gibb, in his 1932 National Ports Survey, to claim that "the development of rival sites and changes of policy have involved enormous and often unproductive expenditure." Gibb went on to argue that the lack of federal ports policy guidelines led to some port authorities "buying traffic" from other more business-like neighboring ports by simply cutting, abolishing or failing to levy proper port charges.

Gibb's National Ports Survey formed the foundation of a radically revised ports system that centralized control over the country's major ports. He weighed the problems and benefits of retaining semi-autonomous harbour commissions with alternatives such as a centralized departmental approach or a Crown corporation system. His fundamental philosophy was that: "the national ports have to serve more than local interest, and in the interests of the whole country, must be directed on national lines and in accordance with a definite coordination policy." This philosophy continues to be reflected in today's port administration as port managers seek to serve the varied needs of their hinterland shippers.

Gibb recommended the creation of a central harbours board comprising three members chosen for their business and technical expertise, and in no way reflecting political or territorial concerns. This board was to directly

administer Canada's "five recognized national seaports": Montréal, Québec, Vancouver, Halifax and Saint John, along with all of those ports of more than purely local importance.

Following Gibb's recommendations, the 1936 *Department of Transport Act* included the formation of the National Harbours Board (NHB). Seven harbour commissions were subsumed under the NHB (besides Gibb's five nationally recognized ports, Trois Rivières and Chicoutimi were added). Over time, the NHB assumed responsibility for the grain elevators at Prescott and Port Colborne and the ports of Churchill, St. John's, Belledune, Prince Rupert, Sept Îles, and Baie des Ha! Ha!. Municipal harbour commissions continued to function independently of the NHB. Some of these commissions were eventually disbanded while others were created.

As befitted an organization created in the depression, the NHB took a decidedly centralized approach to port administration. The NHB ports over time became noted for their rigid centralized financial controls, isolation from municipal and provincial inputs, and the absence of communication with Commission ports.

In the Maritime, the lack of municipal and provincial input into port matters led to the creation of municipal port development commissions in Saint John and Halifax. These commissions were financed through municipal and provincial taxes to promote trade through their local port to boost local employment. The activities of port development commissions along with increasing provincial interest in port affairs eroded exclusive federal port authority. For example, the direct financial





involvement of the provinces of New Brunswick and Nova Scotia in the development of Rodney and Halterm Container Terminals in Saint John and Halifax, respectively, in the late 1960s reflected their growing concern over the port policies being developed in the Ottawa headquarters of the NHB.

From 1827 and 1840, some 15 harbour commission charters were granted to municipalities by colonial authorities. Several commissions became known as federal commission ports as they had federal but no municipal involvement in their administration. These federal ports were subsumed into the NHB system in 1936. Municipal commission ports continued under their initial *Acts* of incorporation. These *Acts* varied depending upon circumstances at the time of their passage. The 1964 *Harbour Commissions Act* rationalized the formation and activities of a number of commission ports.

Harbour commission ports are required to be financially self-sufficient and reflect local interest. They operate with a considerable degree of autonomy. Local commissioners are generally business persons familiar with the port and its trade. Most of the commissioners are federal appointees. The remainder are appointed by one or more of the municipal councils whose communities are adjacent to the port. Harbour commission ports are not subject to the *Financial Administration Act* and are entitled to accumulate reserve funds for harbour planning and development. All harbour commissions, except Toronto and Hamilton (exempted from the 1964 *Act*), report to the Minister of Transport. Toronto and Hamilton report to the federal cabinet. Currently there are nine harbour commissions: Toronto, Hamilton, Windsor, Thunder Bay, Fraser River, North Fraser, Port Alberni, and Nanaimo.

The Public Harbours and Ports group under the direct jurisdiction of Transport Canada's Harbours and Ports Directorate (Canadian Coast Guard) comprises the majority of smaller commercial and non-commercial facilities throughout Canada. The 1983 *Public Harbours and Port Facilities Act* integrates these smaller facilities into a national ports system. The administration of these numerous ports is divided among five regions. Local advisory councils may be established by the Minister of Transport as a means of decentralizing authority. Advisory council members are appointed by the Minister.

Public harbours vary considerably in size and in their significance to adjacent local commu-



Ports Canada

nities. Some serve as essential transportation links for isolated regions while others meet the transportation needs of local industry. The revenues collected in these facilities vary. As pointed out in the 1990-91 Annual Report, "most public ports do not generate sufficient revenues to cover their capital, operating and administrative costs, they are funded largely by appropriations thought Parliament."

In the 1970s, the federal government sought to establish a rational and integrated national ports policy consolidating differing port administrations. The 1971 Manning Report, *Study of Harbour Administration in Canada*, was the first of several analyses of Canadian ports, all of which outlined the necessity of rectifying port administration. Manning recognized that the environment that led to the creation of the highly centralized NHB ports in the 1930s had changed. Competitive threats from US ports and the growing significance of inland rail systems led to the recommendation of creating a single agency of government responsible for all federal ports and harbour activities.

Recognizing the need for reform, the federal cabinet, in 1971, modified NHB ports by establishing advisory local port authorities. Although these appointed bodies remained advisory, they provided an effective sounding board for reform. In addition, NHB took steps

to decentralize their operations to a regional level; streamline financial and administrative systems; establish port executive committees in Vancouver and Montréal; and create a National Ports Council. By 1974, the NHB had assembled a competent central staff operating this altered system.

In February 1974, the federal government announced its intentions to restructure Canadian ports. An interdepartmental committee again reviewed Canadian ports policy. In its consideration of alternative models, the Scott Committee recommended a public service approach, centralizing control of all Canadian ports within Transport Canada. The Scott recommendations found their way into the *Canada Ports Act*, Bill C-6, introduced in Parliament in 1977.

The proposed *Canada Ports Act* included the formation of local advisory committees and regional advisory councils appointed by the Minister. All Canadian ports would be administered through a Canadian Ports Commissioner, a career civil servant reporting to the Minister through the Marine Transport Administration Division of Transport Canada. Some twenty ports of national significance were to be administered by local and semi-autonomous port commissions. These local port commissions were to set rates for services, and establish their own bylaws and regula-





tions. In addition, local port commissions were to be financially self-sufficient. The Canadian Ports Commissioner would serve as a "watchdog" to ensure the various ports were not working at cross purposes.

In his condemnation of the proposed *Canada Ports Act*, Edgar Dosman of York University argued that the outright rejection of the Crown corporation model suggested earlier by the local port authority chairmen with an alternative internal department approach "reflects a public service takeover." The proposed *Act* served to strengthen the central ports bureaucracy by providing considerable discretionary power to the Minister. Dosman's concerns go further as he pointed out that although the legislation had only been proposed in principle in Parliament, it was largely implemented by the Ottawa bureaucrats. Most of the positions in the proposed Canadian Ports Commission were filled by 1978. This incredible situation, in which Treasury Board and the Public Service Commission helped senior Transport Canada officials eliminate NHB staff, added to the ongoing turmoil surrounding Canadian ports administration.

As Dosman pointed out, the crucial issue was the proposed "politicization" of Canadian ports by bringing them under the public service umbrella. "A Crown corporation can say "no;" public servants cannot." The Crown corporation model provides a buffer between the partisan politics of the Minister and the commercial needs of Canada's transportation system: "only a central ports agency with statutory independence, though subject to Ministerial direction, can prevent the total politicization of ports policy, when the political needs of the day will be serviced."

Despite this flurry of bureaucratic and political activity, in the final analysis, Bill C-6 was *not* passed by Parliament due to delays, lack of interest in matters marine, intervening elections, objections to the loss of autonomy of harbour commissions and so on. The conclusion to this continuing drama came with the 1983 adoption of the *Canada Ports Corporation Act*.

The *Canada Ports Corporation Act* established the Canada Ports Corporation as a Crown corporation with subsidiary corporations at the local port level. The legislation sought a balance between national coordination and local responsiveness. A high degree of local autonomy was provided to ports of national or regional significance that had achieved financial self-sufficiency, by incorporating them as local port corporations with their own ministerially appointed Board of Directors. To date, the Minister has granted LPC status to seven ports: St. John's, Halifax, Saint John, Québec, Montréal, Vancouver, and Prince Rupert. CPC is responsible for the other eight commercial ports.

Despite Section 3's definition of a national ports policy, the *Canada Ports Corporation Act* is silent on the role of the other forms of Canadian ports administration: harbour commissions, public harbours (Transport Canada ports), and private industrial facilities. Despite the *Act's* efforts to rectify the problems of the former NHB system, there is still no overall national coordination of Canadian ports.

## Changing Ports Environment

Legislative changes deregulating the US transportation industry along with increased

competition spurred the development of innovative intermodal systems. Enhanced intermodalism can be traced to the deregulated environment created by the 1980 *Staggers Rail Act* and the 1984 *Shipping Act*. The *Staggers Act* permitted the US railroads to undergo major restructuring within a competitive framework. The *Shipping Act* similarly permitted the negotiation of favorable rates and clarified the legality of intermodal services tied to shipping lines. Shipping lines used the deregulated environment to negotiate low-rate contracts with railroads to carry containers (both single and double-stacked) to major inland destinations. The rapid increase in the use of double-stack trains in the US (and now increasingly in Canada) during the latter half of the 1980s created significant shifts in tonnage throughput in many US and, indeed, in Canadian ports. Ports no longer depend upon captured traffic from a well defined hinterland. Today's efficient intermodal systems have opened a variety of competitive routings for inland shippers.

Following the US lead, Canada, introduced regulatory reform with the 1987 *National Transportation Act*. This *Act* and other accompanying transportation legislation emerged from the federal government's earlier 1985 White Paper on "Freedom to Move." Canada's Free Trade Agreement with the US has affected the competitive position of ports.

Opening the border increased awareness by Canadian shippers of competing US gateways. The Canadian railways are also seeking inroads into the US. The recent purchase of the Delaware and Hudson Railway by Canadian Pacific Railway enables them to serve the US ports and Baltimore, Philadelphia and New Jersey. In turn, this has led to reduced container throughput in Halifax as heavy Canadian-bound cargo can now be directly railed to central Canadian destinations from US east coast ports.

The shipping industry has been forced to become more efficient in the increasingly competitive environment of the 1980s. This decade witnessed the introduction of larger container carriers with improved economies of scale but with a need for increased traffic volume and quick port turn-around time. Thus, major shipping lines are increasingly seeking hub ports served by efficient intermodal systems. The Port of Halifax has recently witnessed a significant drop in its container throughput as its shipping lines select to hub through either New York or Montréal.





## Current Canadian Port Dilemmas

Canadian ports, like those in other nations, are in the unenviable position of maintaining fixed capital assets serving a highly mobile clientele (both on the land and water-side). National and international competitive pressures have affected the viability of ports. Competition among Canadian ports has led to charges of unfair practices and uneven playing fields. For example, Saint John faces competition from the Port of Bayside (a Transport Canada Public Harbour). Bayside was developed in 1971 to aid a local fish processing industry as a regional economic development initiative. Over time, however, federal capital investments have expanded the wharf (including \$10 million in 1989) and provided cold storage facilities (a further federal contribution of \$2.5 million). The result has been a steady growth in Bayside traffic, some of which would have normally gone through Saint John. Canadian interport competition also affects the economic viability of inland carriers. Serving a variety of ports spread out geographically within a region reduces rail traffic density. Reduced traffic density limits the railroads' ability to develop an efficient and competitive transportation system.

Although one can argue that such competition leads to over-supply of capital facilities, Michael Porter in his report, *Canada at the Crossroads: The Reality of a New Competitive Environment*, shows that competition can stimulate innovation and develop a national or regional competitive advantage. Porter argues

that a discerning clientele (one which demands high levels of efficient service) coupled with competition inevitably generates creative innovation. A clustering of innovative enterprises leads to a regional or national competitive advantage. Porter's thesis is evident in the rise of intermodalism in the US and its effect on Canadian ports and shippers. Accepting Porter's approach means that competition among ports is beneficial as it will drive these organizations to develop improved efficiencies and productivity; thus, enabling them to compete more effectively.

How can Canadian ports react to competitive pressures? Within the CPC system, LPCs have the authority to set their own rates. To a degree this has occurred as each port seeks to reflect the requirements of its clientele. Rate setting at the port level, of course, has to be within a framework of continued financial self-sufficiency. But there are other steps that can be taken. For example, the Port of Saint John has leased under-used warehouse space for various land-side activities. This approach coupled with improved efficiency through earlier organizational downsizing and effective aggressive marketing to identify and tap niche markets, has enabled the port to meet its financial commitments.

At the national level, questions can be raised over the integrated ports planning undertaken at CPC headquarters. CPC's approach seems to focus on major studies such as: *Competitive Strategies for Canada's Transportation System*; Port Economic Impact Studies; and more recently, *Towards a Canadian Intermodal System: Recommendations for Change*. In addition, CPC provides quarterly

business overviews and sponsors an annual Ports Canada Business Conference. Despite the benefits of these services and studies, the *Canada Ports Corporation Act* does not provide an integrated national ports system perspective. Canadian ports remain divided in different institutional systems. The funds being sent to Ottawa to support the overhead of the CPC coupled with the requirement of paying dividends to the federal government all reduce the ability of CPC ports to re-invest their earnings in their own port operations.

The employment generating function of North American ports has been severely reduced because of intermodalism (including the development of inland container depots), containerization (reducing the need for storage and warehousing) and electronic data interchange (reducing the need for forwarders and Customs clearance). The need today is for streamlined, competitive port administrations - with smaller, more business-like boards of directors - aimed at business development through aggressive and pro-active marketing. Such streamlined, proactive port administrations run counter to the idea of central control and authority over local ports. Today's competitive environment needs flexible port administrations.

## Need for a Competitive Ports Policy

The Canadian port system is unique within federal states in that the responsibility for port and harbour affairs rests solely at the national level. In Australia and the US, two other large federal systems, authority for ports does not



rest at the national level. Despite Canada's uniqueness, port administration is fragmented among various groups: CPC; harbour commissions; Transport Canada public harbours; and private facilities. To remain competitive in the rapidly changing North American transportation environment, Canadian ports need to be structured in a rational, business-like fashion.

The question is whether a national, centralized ports system can be achieved within a Canadian context. Given the geographic breadth of the nation, the political will of the country (ports remaining a low political priority), regional diversity and ongoing global economic pressures, it is unlikely that a national ports policy can be achieved in Canada. Such a policy would require difficult decisions over investment priorities among competing ports in different regions - something Canada has difficulty dealing with.

A range of alternative approaches to developing a national system of ports is available. These alternatives include: increased centralization and control of the various ports and their administrative structures; establishing regional controls; or enhancing local port autonomy through enhanced commercialization and privatization.

Placing all of Canada's commercial ports and public harbours under one centralized administration was discussed and almost implemented in the 1970s with the proposed *Canada Ports Act*. The failure to pass this *Act* reflected the federal government's concerns about increased bureaucratic control over what should be a strictly commercial activity. In addition, Canada has had a history of significant financial troubles arising from a national ports administration. By 1980, the NHB ports had debts and accrued interest owing to the government of \$475 million. This debt load was suspended in 1980 to enable the eventual passage of the *Canada Ports Corporation Act* in 1983. Given this background, it is doubtful that the federal government would reconsider centralizing the control of the national port system.

The middle ground involves the development of regional port systems. Such an approach distributes port assets on a regional scale. The authority to establish regional port advisory councils is in place with the *Canada Ports Corporation Act*. To fully develop regional coordinating bodies for Canada's port system, the authority of each regional advisory council would have to be expanded to monitor and regulate all regional port development

initiatives. This approach would delegate central planning authority to regional bodies. To make the regional advisory councils fully viable, the Minister would also have to delegate membership appointments to the various bodies concerned. Provinces and local municipalities with a direct interest in port affairs should be invited to appoint members. To maintain a business-like approach, none of the members should be elected politicians, but rather be representatives of the business and technical community affected by the ports in the region.

At the other end of the range of alternatives is the currently popular privatization approach. Many eyes are cast in the direction of the United Kingdom with its recent port privatization initiatives. Britain's success with the privatization of the Associated British Ports coupled with the central government's abolition of the National Dock Labor Scheme in July 1989, opened the doors for other port privatization proposals. Many ports are currently taking advantage of the legislation provided in the 1991 *Ports Act*.

What really is needed is increased commercialization rather than privatization. Much could be accomplished, even short of privatization, if port managers were given greater responsibility and authority to enable them to operate commercially. The creation of LPCs ensured commercialization has occurred in seven of Canada's major ports. Such commercialization has always been the mandate of harbour commission ports. Will further steps towards privatization enhance trade opportunities? What may be more appropriate in the

Canadian context is the further commercialization of non-LPC ports and some of the larger commercial public harbours and port facilities.

Recent discussions and interviews on how Canadian ports should be structured with a number of Canadian port managers, Transport Canada officials and academics in the marine transport field led to several alternative approaches. Most of the respondents to an earlier draft of this paper (presented recently at the Canadian Transportation Research Forum in Banff) argued in favor of increased commercialization and enhanced local port autonomy rather than reinforcing central control of Canadian ports. Others hesitated, arguing that the link to Ottawa provided a necessary lever to ward off unacceptable local advances for altering port activities. The following material is based on the ideas and comments provided by the many respondents to the earlier draft of this paper.

## An Alternative Competitive Ports Policy

Canadian ports face increased competitive pressures from the North American transportation system. The currently fragmented institutional structure many not support the future success of Canadian ports.

One approach would be to subsume all of Canada's commercial ports (CPC, harbour commissions and public harbours) into one body. The earlier draft of this paper suggested that in the current climate supporting commercialization and privatization, an appropriate body might be the Canada Ports Corporation.



Ports Canada





Ports Canada

As a Crown corporation, CPC provides distance from the political arena and a commercial orientation.

However, following the considerable comments received from others in the Canadian ports field, a more appropriate strategy would be to convert all of Canada's commercial ports into harbour commissions. In other words, shift the Canada Ports Corporation's LPCs and commercially viable members of Transport Canada public harbours into harbour commissions as well. Under the current legislation, such shifts of ports from one administrative jurisdiction to another are possible by ministerial order-in-council. Thus, all of Canada's commercially viable ports would operate and compete on an equal basis. The ports involved would benefit from: increased local autonomy; greater flexibility in planning and operations; reduced port administrative overheads; opportunities to re-invest their earnings in their own port's activities; obtaining more business-oriented persons on their board of directors; reduced taxation burdens; and other opportunities for finding investment funds besides Ottawa. From the federal government's perspective, this approach reduces the need for close monitoring of port activities and eliminates, to a degree, the opportunity of using ports as a vehicle for funding politically but not financially viable projects.

Existing harbour commissions continue to be economically self-sufficient. LPCs by definition must also be financially self-sufficient and thus can be readily converted to harbour commission status. Non-LPCs and Transport Canada ports have to be evaluated carefully before converting them to harbour commissions. Those that are commercial in nature (possibly defined as attracting domestic

and international traffic beyond their initial development mandate - the Transport Canada port at Bayside is a case in point) and can financially sustain their activities should become harbour commissions. Other non-commercial ports, being maintained to provide access to remote communities or local industries should either be transferred or remain within Transport Canada's jurisdiction as clearly publically subsidized facilities. Each of these subsidized facilities should be evaluated to decide whether they should be abandoned (if alternative transportation modes exist to serve their shippers) or transferred to provincial or local authorities with capped subsidies from the federal government.

To coordinate port activities on a regional level, both the existing and proposed harbour commissions and remaining Transport Canada subsidized ports could coordinate their activities through a regional advisory council. The regional advisory councils provided for within the *Canada Ports Corporation Act*, could be used for this purpose. Membership on regional advisory councils would have to be evaluated to ensure they serve the needs of commercial ports within the region.

At the national level, the federal government may wish to retain a degree of control over port activities by monitoring and regulating the use and disposal of Crown owned land (in a similar fashion to the current airport privatization initiatives). A federal ports secretariat, possibly a separate Crown corporation to maintain a commercial perspective, could be established. The powers of the secretariat would have to be limited to matters relating to land use (for example, overseeing the use and disposal of crown lands within ports) and providing general advice to the Minister of Transport on port issues.

The next stage in the evolution of commercial ports in Canada would be to consider privatizing specific harbour commissions in a manner similar to the current initiatives with local airports.

## Conclusions

The Canadian ports system underwent a major reorganization with the formation of the Canada Ports Corporation in 1983. Although the legislation was progressive by commercializing the nation's major ports, it did not go far enough. The 1983 *Act* did not develop a national ports system. Canada still has a fragmented approach to national ports policy involving three major administrative systems: Canada Ports Corporation ports as semi-autonomous Crown corporations; harbour commission ports; and, public sector Transport Canada Public Harbours and Ports.

To meet the competitive challenges of today and tomorrow, further rationalization and commercialization of Canadian ports is required. One suggested approach is to consolidate all of Canada's commercial ports into relatively autonomous commissions. Ports that are non-commercial in nature should remain within the public sector as Transport Canada Public Harbours and Ports. Once this conversion to harbour commissions has been achieved, further steps towards the privatization of local harbour commissions should be considered.

There are many questions that can be asked about the current institutional structure of the Canadian port system. The commercial approach suggested in this paper is merely one of many alternatives to be considered. Further work is needed in devising other appropriate alternative approaches to improving our national port system to enhance Canada's international trade.

## Acknowledgement

I wish to acknowledge the continuing support for my studies on Canadian port systems from a research grant from the Natural Sciences and Engineering Research Council of Canada and the support provided by the many respondents to the earlier draft of this paper.

*\* M.C. Ircha is a professor of Civil Engineering, The Transportation Group, University of New Brunswick, Fredericton, N.B.*



# D'UN PORT À L'AUTRE

## Halifax

Le *Crown Monarch* a fait escale au port d'Halifax le 2 septembre 1992. Le premier voyage de ce prestigieux navire de croisière précède 23 autres escales attendues en septembre. Le port estime que 43 paquebots de luxe y feront escale en 1992. La saison de croisière de 1993 s'annonce déjà très chargée, 47 visites étant prévues. Les représentants du ports signalent une croissance soutenue dans l'industrie de la navigation de croisière à Halifax, et que les mouvements de passagers contribuent chaque année pour plusieurs millions de dollars à l'économie locale.

## Saint John

Le président du conseil de la Société du port de Saint John, M. Harry Gaunce, a souhaité la bienvenue aux deux nouveaux administrateurs. MM. Bill Thompson et Ken Bourque remplacent MM. Ed Cohen et Fernand Lanteigne, que M. Gaunce a remerciés pour leur précieuse contribution au port. M. Thompson est directeur général de la New Brunswick Salmon Growers' Association, à St. George, et M. Bourque est un homme d'affaires, jusqu'à tout récemment associé dans la firme Bourque Manufacturing, une entreprise de fabrication sur commande de produits de l'acier.

Lykes Bros. Steamship Co. Inc., la toute nouvelle ligne maritime à faire escale au port de Saint John, offre un service direct sur le Sud et l'Afrique de l'Est. Ces nouveaux services sont offerts en coopération avec Safbank Line Limited qui desservait déjà ce marché. La Safbank Line avait établi en 1991 son service sur l'Afrique depuis Saint John, qui est le seul port canadien à l'offrir. Le port accueillera donc un navire de Lykes à tous les 18 jours. Cette compagnie, qui dispose d'une flotte diversifiée, a des routes commerciales à travers le monde entre les côtes américaines et le Royaume-Uni, l'Europe, la Méditerranée, l'Afrique, l'Amérique du Sud, la Mer Rouge, le sous-continent indien et l'Extrême-Orient.

La construction de la cinquième rampe ro-ro au port s'est terminée à la fin d'août. L'ouverture de la nouvelle rampe de hanche, située dans le mur de couronnement entre le terminal Rodney A et le poste à quai 3, permettra d'accueillir les navires arrivant au terminal à produits forestiers de Navy Island. Le projet de construction avait été mis en branle au début de l'été, peu après que le port ait ordonné la démolition d'un hangar qui se trouvait dans cette section.

## Belledune

Les travaux de construction du nouveau quai au port de Belledune étaient suffisamment avancés pour permettre l'installation de la déchargeuse de charbon (capacité de 5 000 tonnes/heure) le 5 août 1992. La construction du quai devrait être entièrement terminée vers la mi-octobre.

## Montréal

Les lignes Canada Maritime et Jadroplov ont porté de deux semaines à dix jours la fréquence des traversées entre Montréal et la Méditerranée depuis qu'elles ont lancé le Service Direct sur la Méditerranée.

Les trois porte-conteneurs qui assurent le nouveau service conjoint relient Montréal à Livourne et Gênes, dans le nord-ouest de l'Italie, et ils font aussi escale dans des ports d'Espagne et du Portugal. Le nouveau service offre aux expéditeurs non seulement des départs plus fréquents et plus ponctuels, mais aussi une capacité de transport accrue.

Le Service Direct sur la Méditerranée est assuré par trois navires identiques de 800 conteneurs EVP (équivalent à 20 pieds), le CanMar Venture et le San Lorenzo, de Canada Maritime, et le Blokovo, de Jadroplov. À Montréal, ces navires accostent au Terminal Racine (Montréal) Ltée. Le Service Direct sur la Méditerranée est représenté en Amérique du Nord par les Agences Canada Maritime Limitée.

## Ottawa

Le ministre des Transports, l'honorable Jean Corbeil, a annoncé récemment la reconduction du mandat de M. Jean Michel Tessier comme président-directeur général de la Société canadienne des ports pour quatre ans, poste qu'il occupe depuis juillet 1987.

Il était auparavant président-directeur général de la Société du port de Québec et a également été chargé de cours aux universités McGill, Sherbrooke et Laval en marketing, transport et recherche administrative.

Le Centre for Transportation Studies de l'Université de la Colombie-Britannique a choisi M. Tessier comme «éminent ancien» de 1992. Il y a récemment prononcé une allocution devant les anciens au sujet du perfectionnement professionnel, des questions commerciales et des défis qu'auront à relever les gestionnaires en transports et en logistique au cours de la présente décennie.

## Vancouver

Une proposition visant à réaménager le terminal Ballantyne en une installation polyvalente moderne vient d'être annoncée récemment par le port de Vancouver. Construit il y a 69 ans, Ballantyne servirait dorénavant de gare maritime et de terminal à marchandises générales, tout en conservant ses caractéristiques historiques.

Le terminal Ballantyne, ouvert en 1923, approche de la fin de sa vie utile: la structure du quai se détériore et il n'est pas conforme aux normes actuelles en cas de tremblement de terre. Les quatre hangars de fret sont désuets et ne peuvent se prêter aux méthodes et équipements existants de manutention de marchandises. En outre, l'état dans lequel se trouve Ballantyne, en tant qu'installation de croisière de rechange, fait qu'il ne répond pas à l'objectif que s'est fixé le port, soit de fournir aux croisiéristes des services et installations de première classe.

Le réaménagement comprendrait un grand entrepôt, conçu pour la manutention efficace des marchandises générales, surtout les produits forestiers devant être entreposés, dont la pâte de bois. Le port s'attend à une plus forte demande en installations adéquates. Ballantyne comprendra également une nouvelle gare maritime, attrayante et efficace, qui lui permettra de continuer à servir d'installation de dégagement pour Place Canada.

Le conseil d'administration a annoncé que M. John D. Wiebe, Ph.D., présidera l'*Independent Project Review Panel* chargé d'examiner la proposition de construction d'une installation à conteneurs à Roberts Bank. M. Wiebe a rempli nombre de fonctions dans les domaines de l'évaluation environnementale et de la planification. La formation du *Panel* satisfait aux exigences des Procédures d'évaluation environnementale et du Processus d'examen de projet. Les autres critères comprennent notamment des réunions publiques ainsi que la préparation d'un document portant sur l'évaluation environnementale.

- Lisa Robertson



# ECONOMIC RESTRUCTURING: THE SHAPE OF THINGS TO COME

## The World Economy at the Crossroads

World trade is, of course, an important engine of growth in the world economy and that engine has been sputtering for some time. Hence, the world economy seems to lack direction or a clear sense of destination, according to the panelists at Ports Canada's International Business Conference.

The aftermath of the October 1987 stock market crash with the subsequent strong growth of the world economy in 1988 and 1989, lead to the central banks of the major industrial countries rediscovering the enormous power that they have over the direction of the world economy, if they act in a coordinated manner. With this new awareness, central banks turned their attention to the steadily-rising inflation rates in major countries since 1988. However, by relying exclusively on tight monetary policy to fight inflation, the central banks made a mistake which lead to fighting inflation with an army of unemployed, with the deflation of real assets, with falling industrial output and widespread bankruptcies. The use of monetary policy alone to fight inflation was like using a baseball bat to kill a fly. You might kill the fly, but you also destroy the furniture while you are at it.

The price Canadians are paying for low inflation is probably the highest among the major industrialized countries, with the highest unemployment rate.

In 1990, the Federal Board began to deviate from the coordinated policy to stop inflation. Currently, Japan, Australia, the United Kingdom and France are also more concerned about getting out of the recession than in lowering inflation. This apparent change in the direction of monetary policy, from fighting inflation to promoting growth, gives one some cause for optimism about the future. Easier monetary policy combined with other important positive changes in the world economy over the past few years are leading to

a more promising outlook. These changes are: the collapse of the communist ideologies regarding a centrally planned economy and the emergence of pro-business mentality; the financial market deregulation in many countries which will ultimately lead to growth; technological progress in a manufacturing industries and a better educated work force; and lastly low inflation. A positive outcome in the GATT talks will also strengthen the outlook

## Growth Prospects

North America will grow by about four percent on average next year and over the next few years. The Canadian economy should begin to grow at around four percent at annual rate by the end of the year and over the next few years. Inflation should remain low at a rate close to three percent for the next few years. However, the unemployment rate is expected to come down quite slowly which will result in low wage increases. Interest rates will therefore, remain low and stable over the near-term and a lower Canadian dollar is also expected. The United States also appears to be heading for a strong economic growth with modest inflation. A four percent annual growth rate in the US economy is expected during the next few years which will level off to about three percent annually over the longer term. Interest rates will rise moderately as the economic recovery takes hold. US economic expansion is expected to be driven by exports.

European Community (EC) will most likely grow more slowly at about three percent per year over the next few years as it attempts to establish an Economic and Monetary Union (EMU). The challenge for the EC will be to push for EMU in the current recessionary environment, with persistently high German interest rates, which could lead to an abandonment of such an idea.

Pacific Rim countries will grow by about four percent on average per year during the 1990s. Even if in 1992 Japan experienced its

first recession since 1974, this country and most of the other Pacific Rim countries are expected to generate strong growth rates during the decade. The expected opening up of the Chinese economy will certainly have a positive impact on this outlook.

## The One Mountain World

The fall of communism in Eastern Europe and the former Soviet Union means the end of the multi-world concept: the capitalist world, the communist world and the third world. We are all in the first or would-be first world. The end of the Soviet Union was more related to economic failure than any other factors. And with it ended the "alternative model" for economic development which claimed that governments could plan the wealth of their citizens better than the citizens could do it themselves.

We are now in the dawn of a new era which mirrors a return of the golden, pre-ideological time of the late 19th century, where the volume of trade registered a 15-fold increase in volume from 1870 to 1913.

We are now entering, as the economists call it, the "one mountain world" where every government's success can be measured by the same yardsticks—democracy, human rights, freedom of economic choice, prosperity, financial stability and an unspoiled environment. Some of the favorable 19th century conditions for the rich investing in the well-being of the poor are being recreated in many countries. In Latin America, many countries have accepted the discipline of rigorous fiscal and monetary policies, the rule of the marketplace and have embraced democratic ideas and institutions. This new 'ouverture' from these countries had lead to a gigantic inflow of private capital estimated at \$40 billion in 1991, in the five biggest countries of this region.

The new-found openness in Latin America and around the world is in sharp contrast with the defensive position of many rich countries which are increasingly limited access to their



internal markets. This attitude can be clearly gleaned from the current GATT talks where they have been unable to muster the courage to abandon many of the old protective and archaic domestic and trade policies such as the Common Agricultural Policy of the EC, the Multi-Fibre Arrangement and the US EEP programs.

Europe is seen as the villain but the blame can also be shared by the United States which has lost the courage to champion the GATT system as it once did. The US is in a paradoxical state of mind, which one might call the 'exhausted victor syndrome.' The US is now increasingly preoccupied with its own inadequacies and the rest of the world's unfairness. These inadequacies have led to the creation of the North American Free Trade Area. The building of a trading bloc does not necessarily lead to the creation of protectionist fortresses. They could act as a good instrument to achieve prosperity.

Trade is becoming more intrusive by exporting cultural value in the way of goods or services. This tremendous growth in world trade can be explained by the very large increase in trade in services; by the huge rise in Japanese foreign direct investment; and the building of trading blocs. Trade in services is becoming increasingly important, accounting for one-fifth of the world trade and recording a higher growth rate than trade in goods during the 1980s.

Foreign direct investment is also becoming the unacknowledged twin of trade with an annual growth rate of about 27 percent since 1984. Japan, which had almost no foreign direct investment in 1980, is expected to become the world's largest portfolio holder outside its border by the year 1995. Foreign direct investment has also led to even increasing production of goods and services by companies outside their country of origin. For Germany and the US, about one-fifth of the production of these countries' firms are made outside their borders. Foreign direct investment is also quite obviously more intrusive of societies than trade. It is attracted by, and reinforces, the creation of trading blocs. Europe has led the way in building a trading bloc and the US is now following with NAFTA. Other countries are not far behind in the trend such

as Mercosul and the Andean Pact in Latin America. In Asia and Africa, countries have also initiated bloc building. However, the EC remains the most advanced form of economic integration in the world. Economics will hold the EC together, and attract other members, whatever the political difficulties.

The world economic outlook is bright in the eye of the *Economist*, even exciting. However, bloc building can make sense between like-minded nations, but if governments decide to



run their country's business with business and politics intertwined, then bloc building is made quite difficult. However, trading blocs should not form a basis of the world trading system and the catalyst should remain the present and future GATT frameworks.

## Overview of Transportation Patterns and Commodity Forecasts

The emergence of trading blocs does not appear to have affected the ever increasing flow of trade between nations. World liner trade is expected to record a robust growth rate during the first half of the nineties with Asia leading in terms of growth rate vis-à-vis the two other major trading blocs, North America and Europe. With a 8.1 percent projected growth rate during the 1991-1996 period, Asia will see its dominance increasing. In 1996, the Asian liner trade is forecast at over 21.3 millions TEUs, compared to North America's 16.5 million TEUs and Europe's at 14.8 millions TEUs. East-west container trade is expected to remain dominant with Asia-North America trade, North America-Europe and Europe-Far East trade still accounting for over 65 percent of all liner trade in 1996.

The healthy growth rate in this trade combined with slower growth in additional slot capacity (vessels) should lead to improved utilization of existing capacity by the 1993/94 period. This situation will lead to a recovery in liner freight rates during the 1990s.

However, continued pockets of depression are expected to continue particularly on the Trans-Atlantic which is plagued by endemic overcapacity. Also, the presence of global carriers in north-south trades will put competitive pressures on rates.

The liner shipping industry is expected to enter the advanced maturity phase during the 1990s with high level of concentration and low product differentiation. Expanding carrier partnerships and industry concentration will lead to even higher level of scale of operations. Also, ever increasing supply rationalization will usurp the role of conferences. This situation has proven that the law of supply and demand is stronger than collective rate-making power. To succeed in the future, liner shipping firms will have to differentiate their

products; create partnerships with their customer; achieve sustainable competitive advantage through scale effects and global service scope; and effectively manage their enterprise to maximize resource utilization and exploit information technology.

The dry bulk trade is forecast to register only a modest increase during the 1991-96 period with the US and Japan remaining the dominant players in the field. Utilization level in the dry bulk fleet is expected to improve.

## Grain Trade Outlook

The outlook for the world grain trade will depend on three major factors on the supply side: the magnitude of EC Common Agricultural policy reforms, the final agreement from the GATT talks and US farm policy. The forecast regarding the grain trade calls for moderate growth during the 1990s. With respect to the wheat trade, very moderate growth rate (one percent) are forecast up to the mid-1990s, with slightly higher growth rate during the latter half of the decade. During the 1990s, coarse grain trade is expected to grow at a higher rate (two-three percent). The countries of the former Soviet Union are expected to remain major importers during the



decade. However, the risk of political instability which will impact on trade flows is great. Production in these countries are expected to recover but this will take time. As for China, limited increase in production is anticipated during the 1990s, which could lead to higher grain imports.

Regarding the supply side, the present CAP reforms, if implemented, are expected to have a greater impact on Canadian grain exports than successful GATT talks. The additional traffic is estimated at 2.1 million tonnes by the year 2000.

### **Increased Productivity at Canadian Ports: the Case of Vancouver**

Over the last few years, Canadian ports have been operating under pressures of increased competition from ports south of the border and from industries which are using the US ports. This situation has lead Canadian ports to find new ways to increase productivity while maintaining the level of service. The development in Vancouver is a good example of this phenomena. Over the past few years, the level of traffic in the Vancouver area has increased with a declining workforce. These improvements in productivity came from cooperation between longshore unions and terminal operators.

Round-tables have been set up over the years in order to address other problems that are putting at risk, port traffic in Vancouver. This traffic could be lost to the US ports if these problems are not resolved. Some bulk traffic is already being lost to the US ports with the movement of 200,000 tonnes of Saskatchewan potash through the Port of Longview, Washington. High rail transportation and terminal costs are the most commonly referred to culprits. For forest products, productivity and product care are major factors affecting port competitiveness.

As for container traffic, additional facilities, need for EDI and competitive double-stack rail service are essential in order to increase the attractiveness of the Port of Vancouver. Even with an optimistic world outlook during the 1990s, the Ports in Vancouver and other Canadian ports will have to continue to improve their competitiveness to secure their existing traffic and to find new business.

- Henri Laflamme

## **TRANSPORTATION AS AN INSTRUMENT OF INTERNATIONAL COMPETITIVENESS**

Businesses can no longer be segmented into independent functions, according to the panelists at Ports Canada's recently completed seventh International Business Conference. With the increasing globalization of trade, it has become imperative for management, labor, government and suppliers of ancillary services to work together to maintain a competitive edge. The success or failure of doing business internationally hinges on high professional services, such as transportation. In this respect, a number of critical factors in the transportation industry are required to ensure strong competition in a global marketplace.

### **Timeliness**

On-time delivery of goods to destination with no surprises is the ultimate goal of all shippers. For example, transportation logistics are critical for the Canadian tobacco industry, which exports to over 30 different countries, according to Thomas F. Lee, vice-president, Materials Management, Imperial Tobacco Limited.

For exporters of bulk commodities, like potash, on-time delivery is equally critical. In this case, demand is seasonal. This, in turn requires building sufficient inventories throughout the year and timely delivery at destinations if Canadian potash producers are to remain competitive. The Port of Le Havre is very concerned about short global transit time because productivity of ships and inland transportation is increasing due to consolidation and increased competition.

### **Integration**

The performance of a transportation system relies on many people working together. Ideally, when it comes to making transportation arrangements, shippers prefer dealing with one person and being quoted one rate for door-to-door delivery. Strategic alliances between transportation players to form an intermodal chain have become necessary if commodities, like tobacco and potash, are to be shipped at the lowest possible cost. For example, the liner company ACL, has integrated shipping services to improve marketing services in response to declining rates on the North Atlantic.

### **Quality Performance**

Damaged cargo means loss of revenue and often of the client. It is important that the amount of commodities shipped and delivered remain the same.

As a sensitive commodity, tobacco production must be handled with care. The industry relies on the maritime carriers and other transportation players to ensure that their products arrive intact at destination. In handling potash, there are requirements to keep the commodity free of dust and moisture, and to control vibration.

### **Flexibility**

Flexibility in the way of doing business allows for more efficiency. In the transportation sector, flexibility has meant the emergence of multimodalism, electronic data interchange, multi-purpose as well as multi-sized containers and double-stacked railway services. These developments ensure that shippers can better compete in diversified international markets, deal with different trade routes and ship sizes as well as with different working conditions.

### **Value**

It is important to provide an optimum combination of price and services. Considered a relatively low value and seasonal commodity, potash producers must have access to affordable



transportation costs along with reliable and quality transportation services, which account for about 50 percent of the value of the commodity destined to overseas markets, excluding waterborne costs.

## Reliability

Shippers are highly dependent on consistency in the performance of maritime carriers. Fixed long-term contracts become paramount for exporters of tobacco products. For bulk commodities, such as potash, finding available transportation services on a seasonal basis is imperative.

Whatever the commodity, long-term partnerships between shippers and carriers become essential in establishing communication networks for a comprehensive understanding of needs and requirements. For example, CSX Transportation works closely with the coal producers and exporters to provide expanded, modern ground storage and blending facilities for this increasing traffic estimated at about 27 million tonnes for 1992.

In face of these criteria, what have the railways, shipping lines and ports done to adapt to changing ways of doing business? The following outlines a number of initiatives.

To be effective, the major challenges as well as opportunities for a railway company like the Burlington Northern Railroad Co. are to have the *right* idea for handling the shipment so that the idea produces the right action that gets the shipment to the *right* place at the *right* time and at the *right* price.

One recent development at Burlington Northern is BNISI (Burlington Northern International Services). Its primary charter is to analyze world trade patterns and assess how they may affect customers and, hence, business.

Another initiative to begin in the fall of 1992 is PBI (Protexa Burlington International). It will be an integrated rail and barge system serving interior markets of Mexico, the United States and Canada. PBI will co-ordinate every aspect of the entire move including all customs requirements, all transportation and shipment arrangements from origin and destination, and all on a single bill of lading. This may be timely, in light of present NAFTA negotiations which could lower tariffs and encourage north-south trade flows.

Pro-active action is a prerequisite for long-term viability. CSX Transportation has developed value-added distribution and warehousing services. At each step of the integrated system of transport, CSX attempts to add value for the customer. The typical transaction is to load the commodity at point of manufacture and haul it to the destination and often there is a point of storage and transfer for local truck delivery too. CSX goes beyond that with value-added operation such as heating and blending the product with appropriate additives in the case of liquid asphalt in the Bulk Intermodal Distribution Service facility.

The maritime company follows the same rules: a quicker response in this highly-competitive industry. The golden rule of ACL facing 40 percent excess capacity on the North Atlantic is to improve all services offered. As the competition continues to increase, this would lead to fewer ships and fewer ports. There will also be more mergers, slot and equipment (containers) sharing and more streamlined conference structure.

According to the Port of Le Havre, there are changes in the shipping lines' strategies: firstly, large shipping groups are investing in ports, inland transportation and distribution; secondly, the productivity of ships is improving: the 4,000-TEU and over are a reality and commercial speed of 23 knots push for rapid services. To play a major role, ports have to offer very short global transit time: the ability to accommodate larger ships, the areas for distribution activities and the fluidity of inland access routes.

- Ginette Morin and Sophie Morin



Ports Canada

# P · O · R · T · U · S

Fall 1992  
Vol. 7, No. 4

EDITOR-IN-CHIEF  
Hassan J. Ansary

ASSOCIATE EDITOR  
Lisa Robertson

FRENCH EDITOR  
Anne Laliberté

DESIGN & PRODUCTION  
Brian Underwood

PRINTING  
Beauregard Printers  
373 Coventry Road  
Ottawa, Ontario  
K1K 2C5

ADMINISTRATION  
Gail Bigelow  
Terry Larcher  
Sylvie Picard

The publishers do not guarantee the accuracy of the information contained in *Portus* nor do they accept responsibility for errors or omissions or their consequences. The opinions expressed in *Portus* are those of the authors and do not necessarily represent the views of Ports Canada, its management or Boards of Directors.

ISSN 0832-8587  
Copyright 1992  
Printed in Canada

Ports Canada describes a federal system of ports located in Belledune, Churchill, Halifax, Montréal, Port Colborne, Port Saguenay/Baie des Ha! Ha!, Prescott, Prince Rupert, Québec, Saint John, Sept-Îles, St. John's, Trois-Rivières and Vancouver.



## SUSTAINABLE TRANSPORTATION: A FACT OF LIFE

In his introduction, moderator Richard Peckham of *International Bulk Journal* indicated the stage was set for the panel to communicate the support of the shipping industry for sustainable development and overcome the transportation industry's poor environmental image.

He inferred that this industry image has developed over the years: dusty bulk cargo, oil spills, contaminated vessel ballast water and accidents involving dangerous goods make good media copy; and environmental lobby groups have strong media ties. On the other side, the shipping industry has not effectively communicated any of the substantial environmental advantages of vessel transport to the general public. Panel presentations outlined the present attitude of government and industry towards "sustainable development" [development that meets the needs of the present without compromising the ability of future generations to meet their own needs, 1986 World Commission on Environment and Development].

The federal position requires the economic process to be sustainable, whereby environmental effects of decisions are in harmony with economic effects, and sustainability is routinely incorporated into all aspects of management and decision-making. The industry support this view, and the objective to ensure that the industry and governments will not compromise future generations to meet their needs. In fact, protecting and enhancing the environment is seen, by many companies,

as a real marketing advantage and linked to competitiveness in our modern world, particularly as science is providing strong support for concern regarding the world's environment. The publics of the world are acutely aware of the environmental situation and concerned, witness the recent Earth Summit.

The federal government, in its part, is beginning to see results from its "Green Plan" as well as the Federal Environmental Assessment and Review Office (FEARO) process, but that process must be applied early in the decision making procedure. Bill C-13, the new *Environmental Assessment Act*, will further improve the situation and provide more openness and consultation with the public in respect of federal projects.

Due to the high public media profile of some hazardous commodities, such as the transportation of radioactive materials by rail, (it causes 90 percent of the problems but constitutes only one percent of the cargo volume), trucking is the preferred means of transport. Norman Ravenscroft of Edlow International, indicated that the public attitude is directly tied to the cargo and its media coverage, and has nothing to do with technology. Modern technology, accompanied by emergency response and employee training, receive a high profile within transportation organizations and have permitted radioactive materials to move safely for 50 years without one fatality, he said.

Containerization has greatly improved safety in the radioactive materials industry. Goods

are loaded by experts and no intermediate, individual package handling of the consignment is required prior to receipt of the cargo by the shipper. Safety standards for the packaging of this material undergo rigorous testing including drop tests, heat and collision testing. Computer models are used to simulate the effects of various accidents upon the packaging as well as the material contained within the packages, so that the industry may cost effectively extrapolate various emergency scenarios to further improve upon packaging design and safety. Computers are also used to monitor shipments and some of the more sensitive shipments are tracked by satellite.

Another industry that is in a loss position regarding public support in respect of environmental issues, is the Canadian forest products industry. Niall O'Briain, president of Fraser Inc., indicated that is the largest industry in terms of Canadian sales but is in a loss position financially as well as environmentally. However, the industry is committed to sustainability and considers the environment to be critical.

The Canadian Pulp and Paper Association has an environmental statement that is a living document and independent audits show that the forestry industry meets or exceeds forest management requirements. The industry provided approximately 320,000 direct, and one million indirect jobs in 1990; but, in 1991, was in a substantial loss position with an amount in excess of a billion dollars. Transportation constitutes industry's third highest cost.



## The Ports Canada / ICHCA 1992 International Business Conference

Progress is being made in the industry and economic opportunities to modernize are underway. The industry expects a bill of about \$3 billion to meet new regulations concerning the environment and a further bill in excess of a billion dollars is expected to ensure 40 percent of future US sales are recyclable. The industry is rightfully concerned. It looks to environmental regulators to ensure the regulatory environment will have a cost benefit, and to the transportation industry to ensure that the service will be of high quality and cost effective.

John Terpstra, executive director, Port of Tacoma, said port authorities are also looking to work harmoniously with the environment and publics. Ports are at the edge of the sea and their facilities have a high possibility of adversely impacting upon the environment. The environmental issues faced are many, including contamination, esthetics, safety, public access, zoning, recreation and more. Areas within the port jurisdiction must be surveyed to ensure harmonious environmental development. However, ports and the associated industry have another issue, in so much as every level of government, environmental groups and the entire public at large, all use the environmental process for their own advocacies.

There is a great need for balance and reasonableness. The shipping and transportation industries are worried about the ground-swell of increased regulatory demands of the environmental side of what should be a balanced system.

In respect of public ports in the State of Washington, they are a unique mix of a government very much responsible to the public as the administrators of their resources, and business. There is a mandate to protect the environment responsibly while providing a balanced business climate; port authorities approach these difficult balancing acts with honesty and commitment to do "what is right" in the public interest. They worry, however, that balance by the regulators may be lost, the public may not yet realize that without balance and responsible decision-making in the process, the public themselves may not be doing what they intended to, that is, to be good stewards of their land and resources while

reasonably assuring their economic well-being.

However, if efforts to seek balance and reasonableness are not forthcoming, it is recommended that one should not - in fact cannot - expect to accomplish the mission by fighting the issue. In today's atmosphere of environmental conscienceness, the industry must be willing players or even proactive for their growth to proceed.

Terpstra went on to say, "how did we do it in the Port of Tacoma? We were willing to spend over \$30 million in environmental studies, environmental permitting, clean up, and mitigation and enhancement projects over an eight-year period; and we are prepared to

enlightened and show a willingness to be proactive, we need balance between environmental pureness and economic vitality, and encourage those who regulate us accordingly. However, projects will not succeed by only avoiding or fighting the imbalance. It is possible to work harmoniously with the environment, it is part of our responsibility to our shareholders, and the public we represent, he indicated.

Anne Aylward, Maritime Director at Massport, explained that the port is the heart of all big cities and historically, cargo was the drawing card to bring the people together. The old port had a romantic atmosphere, each element of its operation, as well, ships could be seen visually; the local benefits were clear to the local economy, whether they were direct or indirect.

However, today the local benefits are blurred without a clear connection to the viability of the city. There is no natural hinterland, with less direct local ownership of port facilities and operations, also, export or import companies, and the port operations are far less labor intensive.

Nevertheless, ports are a public entity and must be recognized as such, even though the ownership of many of the operating elements are either international or from far away places. There is a need to communicate the *raison d'être* of the port, its traffic and facilities and clearly demonstrate the advantages it brings to a city. Aylward indicated that we must work with environmental groups to find solutions to issues so

that projects may proceed, rather than act like adversaries. Both are working towards the same goal: environmental sustainability.

The advantages of the modern port are so undefined within the present community that we should consider education, through presentations within the community school system, regarding the need and advantages of the port infrastructure and show why these facilities are so necessary to the community's well-being.

- Geoff Carter



spend from \$10.5 million to \$20.1 million in 1992, on environmental efforts or joint environmental development efforts, and from \$33.4 million to \$56.3 million over our current five-year capital plan."

Terpstra recommended a proactive stance to minimize impacts through mitigation measures that fairly consider enhancement needs and are not stingy; one must commit to contingencies and be willing to go to reasonable alternatives, and communicate; communicate through carrying plans and objectives to the maximum number of interested parties and the public.

It is imperative that ports in Canada and the US recognize the need to be environmentally



## PLANNING FOR AN UNCERTAIN WORLD

The last session of Ports Canada's 1992 International Business Conference dealt with planning, the process by which the multitude of trends and influences are sorted out and turned into action plans. Erik Stromberg, president of the American Association of Port Authorities, served as moderator of the panel. Prior to introducing the speakers, he emphasized the importance of planning by all organizations.

John Armstrong, managing director of the Monitor Company, well-known for last year's report on Canadian competitiveness co-authored by Micheal Porter of Harvard, was the first panelist. He began by providing a definition of strategy and an explanation of its components. He suggested that there are only two sources of competitive advantage for a company - cost leadership, in which an edge is gained by meeting customer needs while lowering costs; or, differentiation, in which certain needs, highly valued by customers, are met by selectively adding costs to obtain premium prices.

Mr. Armstrong went on to give a number of examples of issues carriers might consider in developing their strategy - the optimal level of integration with road, rail and warehousing; how to develop closer links with customers by integrating into their production processes; and, the trade off between utilization and flexibility in consortia. The issues he presented for ports to look at included prioritization of investments in an age of tight capital; finding a niche within the evolving specialization of ports; and, developing strategies to address less controllable factors such as inland distribution systems and the regulatory environment. Finally, he touched on the role of nations in the global context by stating that nations constitute a platform for industries. According to the nature of a

nation's human resources or its technological base, firms in certain industries can achieve international competitive advantage.

Albert Howewerckx, deputy general manager of the Port of Antwerp, followed with his views of factors that will affect ports during the last decade of this century. First, he forecast that maritime trade between industrialized countries will continue to grow steadily in a context where the worldwide evolution to a free market economy promotes economic expansion, especially in the Pacific region. To

that satisfying customers from the point-of-view of ports means providing acceptable service levels while minimizing costs and maximizing efficiency. He then outlined some of the difficulties Australian ports have faced in trying to achieve this in a situation where government has imposed a whole range of requirements and accountabilities that prevent ports from acting commercially. This environment allowed what he termed "bureaucratic creep" to increase the Maritime Services Board of New South Wales workforce from

2,000 to 3,400 between 1950 and 1988. A program of trimming staff will take the number down to an estimate 1,000 in the next few years, while maintaining the port's service level. Along with such administrative reform, he suggested that the documentary system needs to be streamlined and the electronic data interchange needs to be introduced on a national scale.

George H.J. Kuhn, president, Danzas (Canada) Ltd., also took up the theme



take advantage of these opportunities, he listed several directions the Port of Antwerp management feels it must take. Port infrastructure will have to be continually expanded, in particular, new container terminals will be needed. Less direct labor and more automation will be required, along with the use of electronic data interchange. The port will have to meet needs for further industrialization, and provide more covered storage and distribution facilities. Forces like intermodalism and just-in-time manufacturing are driving these demands. Last, environmental requirements and restrictions will grow stricter.

The perspective from the other side of the globe was provided by Peter Brown, executive director of the Association of Australian Port and Marine Authorities. His succinct response to his assigned topic, transportation priorities, was the satisfaction of customers. He stated

of customer satisfaction in the 1990s. Based on the rapid and constant environment of change in global transportation markets, abetted by larger political and economic upheavals and technological evolution, he believes that "service with a smile" is not longer good enough. This means, in his view, that companies must adopt a philosophy of customer-directed quality. The implication is that companies must move from transaction-driven systems to relationship-driven systems in dealing with customers. A partnership is developed with the customers. Logistics outsourcing by shippers is growing as companies focus on core activities, and this reinforces the trend to relationships. At the same time, the use of electronic data interchange is an essential tool making it possible to operate that way. He emphasized that the most important element in attaining a high



level of quality is people. In his view, investment in people is as critical as investment in technology. Constant education, linking compensation to performance and buying technology to support, not just replace, people are ways to further the capabilities of a work force.

The last panel speaker of the conference, Barry Olsen, president of Maersk Line Agency (Canada) Ltd., first touched on the gloomy characteristics of the past decade - overtonnaging, rate wars and financial losses. He then stated the situation is improving and explained how carriers are coming up with

new strategies. One such strategy is partnerships with other links in the intermodal chain, such as railways, truckers, barge operators and terminal operators. This is necessary in order to meet the needs of customers who are evolving towards a total transportation package - door-to-door is becoming floor-to-floor and even shelf-to-shelf. His remark that inland transportation costs in Canada are the highest that Maersk faces in the world emphasizes the significance of such partnerships in Canada. A second type of partnership is with competitors though sharing space on each other's vessel. The trend towards larger

vessels, including his prediction of 5,000-TEU ships soon, and associated higher capital costs, ensures the continuation of vessel sharing in future years. It also means the end of round-the-world services and, in his opinion, provides Canada an opportunity to set up a landbridge between Asia and Europe. The third type of partnership he discussed is with customers. Obviously, shelf-to-shelf transportation requires a high degree of cooperation between carriers and shippers.

- Jean Lespérance

## TRENDS ON THE TECHNOLOGICAL HORIZON

Emerging trends on the technological horizon" was the theme of one of the panels at the recent Ports Canada's International Business Conference. The experts on the panel included Gus Smith, a partner with Andersen and Co., who spoke on the subject of "the increasing role of information in global competition", Martin Fournier, executive vice-president and chief operating officer with Teleglobe Canada, who addressed the issue of "innovations in information communications", Chris Provencher, general manager of Xerox Corporation Canada, who discussed "electronic commerce - the wave of the future;" and Gilles Bélanger, president of the Canadian Trucking Association, who talked about "technological breakthroughs in surface transportation."

Some of the major improvements in information and communication technologies will be the seamless integration of data, graphics, voice and video. This will be made possible by an increased acceptance and implementation of the Open System Interconnect (OSI) model and Integrated Systems Digital Networks (ISDN). The OSI model is a series of layered standards that, when followed, allow distributed systems to communicate independently of hardware and software suppliers. ISDN is a high capacity digital network that will allow the transmission on the same network of different media such as data, voice and video.

The development of software using object oriented programming and Computer Aided Systems Engineering (CASE) will greatly improve the human interface to computers and shield the user from the underlying complexities of the programs. The implementation of these technologies, which are already available, will result in a refocus on business processes.

Information is the ultimate competitive weapon. The role of communication is to ensure that information is available to the right people at the right time at the right place. Deregulation and technological innovations over the last couple of decades have combined to create a revolution in telecommunication. The first Trans-Atlantic optical cable was recently inaugurated. Satellites complement the fixed cables and allow mobile communication and tracking. Through

Teleglobe Canada, Canada is linked to some 240 countries and locations across the world. Project 21, a mega cellular network covering the world will soon become a reality. Telecommunication costs are rapidly decreasing, thus lowering an important barrier to communications.

In a rapidly-evolving world, the only thing that is certain is change. The challenge for companies and executives is to adapt to and manage technological change. The predominant structure of companies throughout the 20th century has been hierarchical and functional oriented. On the whole, this has served us well and allowed for economies of scale. The ongoing revolution in information and communication technologies has led to the emergence of a much more fluid and flexible company structure with decision-making delegated much further down the company structure and much less concerned with central control. To thrive in this new environment, it is important to understand the business processes before looking at technology. The key work again is "re-engineering of the business process."

A technologically advanced transportation company will receive electronically all relevant information regarding a shipment in advance in order to assign equipment and plan the routing. When collecting the shipment, optical readers verify the previously-received information in order to avoid errors and the bill of lading is produced automatically. The driver is advised by an onboard computer as to the best routing and timing, thus allowing him to avoid congested areas and traffic jams. Through satellite tracing and communication, the office knows where the vehicle is at all times and the driver can receive new instructions without leaving the vehicle. This technology is not a vision of the future but a description of what is available today. The challenge is affordability, awareness of the possibilities offered by the technology and learning how to cope with incompatible technologies.

When it comes to technology, the future has arrived.

- Niels Rasmussen



# Ports Canada Police:

## 150 Years of Service

Ports Canada Police are respected around the world as leaders in the unique task of maintaining law and order in the waterfront environment.

by Lynn Beveridge\*

**S**ome thirty years prior to Confederation, a government organized police force patrolled the shores and waters of the Port of Québec. Later, in 1851, a similar but more shore-based force was organized by the government at the request of the Harbour Commissioners to police the Montréal Harbour and the Lachine Canal. These forces, known as the Québec River Police and the Montréal Water Police, which were modeled on the Thames River Police, were among the earliest constabularies in British North America and the first government, as opposed to municipal, police forces. They operated under legislation known as the *Québec Harbour and River Police Act* until being phased out by government order in 1889 at Montréal and in 1892 at Québec.

The organization of the earliest of these forces, at the Port of Québec, which is

generally recognized as being the ancestors of today's Ports Canada Police, appears to have been brought about by the unrest and breakdown in public order during the Lower Canada Rebellion of 1837-1838. The charters of both the cities of Québec and Montréal had been suspended and their police forces disbanded. A small force of some twenty-one policemen and a unit of volunteers were then appointed in December of 1837 to police Québec. In his 1839, "*Report on the Affairs of British North America*" Lord Durham wrote regarding this force:

"Finding this force wholly insufficient, ... and above all, being much pressed to increase the police by the owners of vessels who had no power of restraining the desertion of their crews, I ordered a regular police force of 32 men to be organized on the plan of the London police in June last. This body was further augmented in October to 75 ..."

Out of this group, a contingent of twenty-one men comprised of a Sergeant Major and four boat crews, each of a coxswain and four constables, were employed in August of 1839 to patrol the waterfront for the protection of the shipping and timber coves from the losses incurred by timber takers and others in cutting boats adrift. They were also responsible to suppress, as far as possible, the system of taking seamen from vessels in the night time and harbouring them on shore (crimping). According to the inspector of police, Québec's waterfront of the day, the coastal road and outlying coves were infested with timber stealers, deserters, vagrants, rowdy raftsmen and "crimps" - tavern or boarding house-keepers who encouraged mariners to illegally leave their employment. This River Police force was disbanded for the winter of 1839-1840; however, the inspector of police retained a unit of five men at Point Lévis to guard



against possible rebel activity from across the US border. These seasonal operations continued throughout the 1840s. Although closely associated with the Québec municipal police during its first decade of operations, the River Police retained a distinct identity and command structure of its own.

Subsequent to the dissolution of the Montréal Water Police in 1889, the policing of the port was turned over to the Montréal municipal force. There was much displeasure registered with the level of attention being given to the port by this force during the first decade of the twentieth century, and finally in 1909, two special constables were hired to assist in the protection of persons and property within the harbour. In 1913 a Harbour Police Department was organized, serving as the basis for the force which patrolled the harbour at Montréal for the duration of tenure of the Harbour Commissioners, ending with the advent of the National Harbours Board (NHB) in 1936.

Like Montréal, after the dissolution of the Québec River Police in 1892, policing duties related to the harbour were turned over to the city for enforcement as was being done at that time in Saint John and Halifax. Scant record of the activities of these forces in policing the three harbours has been located, nor has it been possible to determine the exact dates of terminating the responsibility for these activities by the municipalities. However, there is ample evidence that Harbour Police forces were operating under the Harbour Commissioners at the ports of Québec, Saint John and Halifax during the 1920s and 1930s.

With the promulgation of the *National Harbours Board Act* in 1936, the Commission Ports of Halifax, Saint John, Québec, Montréal and Vancouver were disbanded and their administration brought under the control of the National Harbours Board located at Ottawa. The Harbour Police forces then operating were absorbed into the new administration and operated as autonomous units subject to the control of the local port managements. As there was no provision in the *Act* for the appointment of police constables, their policing duties were carried out through the appointment of selected members as special constables, under authority provided by the provinces or municipalities and in some cases the *Royal Canadian Mounted Police Act*.

An amendment to the *National Harbours Board Act*, in 1954 gave authority to the NHB to apply to a Judge of a Superior Court for the appointment of police constables under the *Act* for the enforcement of the *Act*, its by-laws and



the laws of Canada or any province to protect persons and property situated upon premises under the administration of the NHB. These constables were deemed to be peace officers within the meaning of the Criminal Code of Canada, and to possess jurisdiction as such on NHB property and in any place not more than 25 miles distant from property under the administration of the NHB. Immediate advantage was not taken of the benefits possible by the application of this amendment and the several police units continued on in their currently constituted state, with varying degrees of unsatisfactory performance until 1968, when a report on a study commissioned by the NHB found them to be almost totally ineffective.

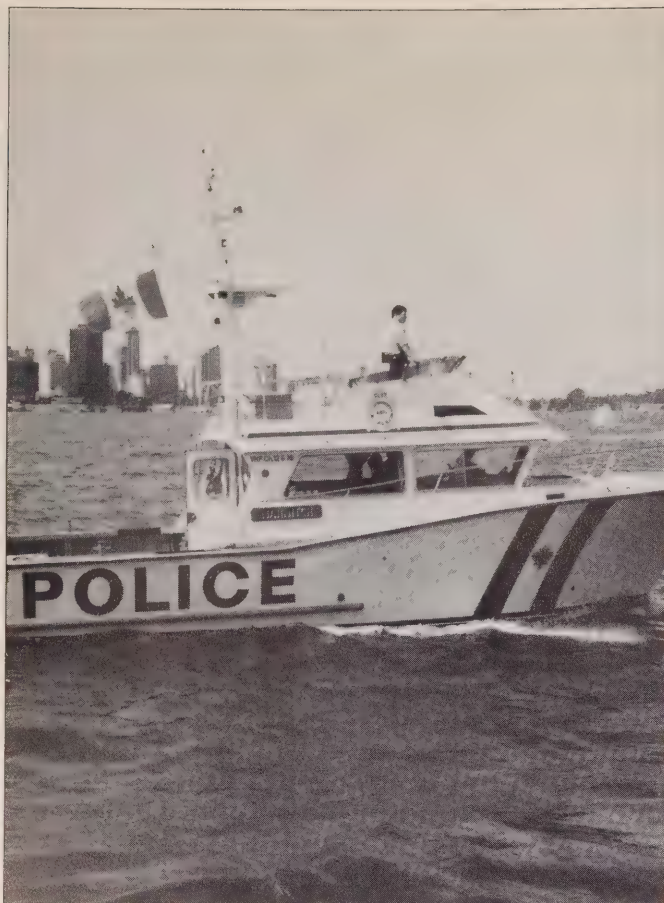
Acting on the recommendations of this study in February 1968, the NHB took action to reorganize and unify as a single force known as the National Harbours Board Police and Security, units in Halifax, Saint John, Québec, Montréal and Vancouver and to establish a detachment at St. John's, bringing all under the command of the director general of police from headquarters located in Ottawa. Directors, responsible to the director general were appointed to head each of the detachments and all members were sworn as police constables under Section 5 of the *Act*. The need to give attention to the several ports under NHB

administration where police units did not exist was recognized and this was taken care of by the assignment of members on an as required basis from Headquarters or a detachment close at hand.

Recruiting and training standards were established and modernized policing methods brought into effect through intensive training and the publication of standardized directives and orders. A rank structure was instituted, new and up dated uniforms and insignia developed, offices renovated and modern equipment purchased. With these moves, a pride of service was instilled in the force and under the command of professional police officers, the previously rampant criminal activity existing at some of the ports was effectively addressed.

On February 24, 1983 the process of evolution of Canada's ports and harbours underwent further change with the proclamation of the *Canada Ports Corporation Act* which disbanded the National Harbours Board and established a system of local port corporations each possessing a high degree of autonomy. Under this new *Act*, the basic police powers and jurisdiction were retained by police constables appointed before a Superior Court Judge upon application by the parent Corporation. The force was renamed "Ports Canada Police" and on January 6, 1984 a legal





Ports Canada

Ports Corporation board of directors on all matters related to the maintenance of an adequate and efficient police force. At the detachments, the importance of water patrols was stressed and suitable equipment obtained for such at those where none had existed in the past. The position of protective services officer to advise on matters of internal security and emergency preparedness was created and in 1991, a new detachment opened at the Port of Sept-Îles by the transfer of an officer trained in these matters.

Todays Ports Canada Police is made up of a cadre of well-trained professional police officers, proud to serve in the specialized atmosphere of port policing.

They are known and respected on a world-wide basis as a leader in the unique task of maintaining law and order in a waterfront environment. They provide Canada's major ports with the total range of policing, internal security and emergency preparedness activities embodied in the Board's Protective Services Program. A number of Memoranda of Understanding for cooperative services are in place with other interested enforcement and regulatory agencies, ensuring their important contribution to the Canada Ports Corporation and Canada continues into the future. Indeed, to quote the words of Roger Tasse, the then Deputy Attorney General of Canada in his letter of January 6, 1984 to the Canada Ports Corporation, president and chief executive officer, "I am sure that the CPC can continue to provide for a national port constabulary that will be sensitive to the needs of the LPCs, respectful of its duty to the CPC and will enforce the *Act* and the laws of Canada in accordance with its statutory mandate under section 5."

*\*Lynn Beveridge is advisor, special requirements with Ports Canada Police in Ottawa.*

opinion was obtained from the office of the Deputy Attorney General of Canada, that the Canada Ports Corporation, as opposed to the local port corporations, continued to possess the jurisdiction and responsibility for providing a policing service at the ports. Following this, on July 9, 1984, a National Policy on Protective Services was adopted by the board of directors giving definition to the services to be performed by the police and the responsibilities of the parties involved embodying the three areas of police, internal security and emergency preparedness. With the renaming of the force under the new *Act*, attention was turned to it's official badge, and in 1985 artwork prepared for the purpose of regularizing it's use was forwarded to Buckingham Palace under the auspices of Her Excellency, The Governor General of Canada. This artwork was returned, duly approved and signed by Her Majesty on January 7, 1986.

Following close on the heels of the surge in activities created by a reorganization of the Corporation, to meet the requirements of the new *Act*, the force undertook a number of internal changes, mostly at Headquarters, by creating a structure to respond to the Boards National Policy on Protective Services placing emphasis on the need to give attention to each of the three areas within the policy. A Police Committee was formed to advise the Canada

## Twinning "A First" for Canadian Ports

**Vancouver, British Columbia** - The Port of Vancouver and the Port of Sept-Îles, became Canada's first official "sister ports" at a "twinning" ceremony attended by senior port officials and industry and government representatives.

"Clearly both ports possess expertise from which the other can benefit," commented Vancouver Port Corporation chairman, Patrick Reid. "Expanding our horizons to include each other's expertise can only enhance our capabilities as Canada's two largest ports."

Under a banner of "2 Ports -- 1 Mission," the ports of Vancouver and Sept-Îles expressed confidence that a closer relationship will enable them to enhance and accelerate their mutual goal of fostering Canada's international trade. The intent of the inaugural accord is to implement a program through which the ports can cooperate and assist one another in the areas of technology, planning, communications, marketing, environment, operations and administration. Areas singled-out as having early potential for cooperation are those of technology and emergency preparedness.

Canada Ports Corporation president and chief executive officer, Jean Michel Tessier remarked that, "the inaugural twinning between two Canadian national ports symbolizes a mutual desire to further Canada's waterborne trade and transportation network so that Canada can continue to be competitive in a global economy."

According to 1991 statistics, the Port of Vancouver was the top Canadian port handling 70.7 million tonnes, while Sept-Îles ranked second at 21.9 million tonnes.



# Border Lines

## From North of the Border

by Peter G. Cathcart Q.C. and Vernon V. Kakoschke\*

### North American Free Trade Agreement

On August 12, 1992, Canada, United States and Mexico announced that they had successfully concluded negotiations on the North American Free Trade Agreement (NAFTA). The legal agreements are currently being drafted and will be subject to ratification by all three countries. Given the political climate in Canada and United States, ratification may not be a sure thing.

The following are some of highlights of NAFTA as it relates to the transportation sector.

- Unlike the Canada/US Free Trade Agreement which dealt with sectors specifically mentioned, NAFTA includes all sectors unless specific reservations are taken with respect to the sector in general or specific parts of the sector.
- The important areas of NAFTA for transportation are the chapters on the Cross-Border Services and Investment.
- The Cross-Border Services chapter sets out basic rules and obligations with respect to trade between the three countries and provides for:
  - National Treatment - each country agrees to treat service providers of the other NAFTA countries no less favorably than it treats its own nationals in similar circumstances.
  - Most Favored Nation - each country will treat service providers no less favorably than it treats service providers of any other countries in similar circumstance.
  - Local presence - NAFTA countries may not require a service provider of

the other country to establish or maintain a residence, representative office, branch or other form of enterprise as a condition or a provision of the services.

- Reservations - each NAFTA country can maintain existing laws which do not conform with the above principles and each country has two years to complete a list of non-conforming measures. As well, each country can maintain quantitative restrictions to limit the service or the number of service providers in a particular sector.
- Exclusion - NAFTA will not apply to several areas which are specifically excluded including most air services and the maritime industry. However, certain international maritime services between Canada and Mexico are enhanced as Mexico has agreed to remove certain cargo reservation measures.

### Transportation Services

The most significant effect of NAFTA in transportation will be in the land transportation sector which will see a phase out of restrictions on cross-border land transportation between the three countries.

- On the effective date of the NAFTA, the US will amend its moratorium on grants of truck and bus authorities by allowing full access for Mexican charter and tour bus operators. Mexico will grant equivalent reciprocal rights to the US and Canadian charter and tour bus operators. Canada will continue to permit the US and Mexican charter and tour bus operators to obtain operating authorities in Canada on a national treatment basis.
- Three years after the effective date of NAFTA, Mexico will allow Canadian and US truck operators to make cross-border deliveries to and pick up cargo in Mexican border states. Mexico will also allow 49

percent Canadian or US investment in bus companies and truck companies providing international cargo services; Canada and the US will permit Mexican truck companies to distribute interactional cargoes.

- The US retains its moratorium on operating authorities for truck carriage of domestic cargo and domestic passenger service but would allow Mexican national to hold non-controlling interests in US truck and busing companies. At the same time, US will allow buses from Mexico to operate scheduled cross-border bus services into the US and Mexico will provide the same treatment with bus companies from Canada and US.
- Six years after the effective date of NAFTA, the US will allow cross-border access to its entire territory to trucking firms from Mexico and Mexico will provide reciprocal rights to Canadian and US trucking firms.
- Seven years after the effective date of NAFTA, Mexico will allow 51 percent Canadian or US investment in Mexico bus companies and trucking companies providing international cargo services and US will reciprocate by lifting its moratorium on domestic operating authorities from Mexican bus companies. The 51 percent threshold increases to 100 percent ten years after the effective date of the agreement. No NAFTA country will be required to remove restrictions on truck carriage of domestic cargo.
- With respect to rail services, Canadian and US railroads will continue to be free to market their services into Mexico operate unit trains with their own equipment, constructing and own terminals and finance rail infrastructure and Mexico will have full access to Canadian/US railroads.
- Most maritime services are outside NAFTA. However, the agreement provides for certain liberalization with respect to terminal and port facilities. Mexico will allow 100 percent Canadian or US investment in an



operation of port facilities such as cranes, piers, terminals and stevedoring companies for enterprises that handle their own cargo. For enterprises handling other companies' cargo, such investment would be allowed after screening by the Mexico Foreign Investment Commission.

## Tariff Elimination

The NAFTA provides for phase out elimination of tariffs on all goods qualifying as North American under the Rules of Origin set forth in the agreement. The target date for the commencement of the phase out plan is January 1, 1994. As between Canada and Mexico and with respect to goods and equipment used in transportation, the periods are as follows:

- ships (including barges and motor boats) and buses - 10 years;
- aircraft - immediate;
- trains and rail equipment - immediate (except for passenger coaches which would be phased out in 10 years);
- trucks - light trucks are subject to an immediate 50 percent reduction with other tariffs being phased out over five years and heavy trucks over ten years.

## Coasting Trade Act

After more than a decade of discussion, amendments and delay, the *Coasting Trade Act* was finally passed by the Canadian Parliament on April 28, 1992. As reported in earlier editions of *Border Lines*, this *Act* replaces Part X of the *Canada Shipping Act* and codifies Canada's cabotage law and practice as it has developed over the last decade in relation to foreign vessels operating in Canadian waters. The *Act* incorporates many of the amendments resulting from industry consultation after the original proposals contained in Bill C-33 were circulated.

Details of the *Act* have been reviewed in the Fall 1991 issue of *Border Lines*. Highlights are as follows:

### Definitions:

- "coasting trade" is broadly defined as including the carriage of goods or passengers by ship, "or by ship and any other mode of transport, from one place in Canada or above the continental shelf of Canada to any other place or to the same place in Canada, either directly or by way of a place outside of Canada. . . ."
- with respect to the cruise industry, only the carriage of passengers on lakes or rivers in Canada and within specific geographic limits on the St. Lawrence and Fraser rivers and from port - to - port or to the same port ("cruise to nowhere") are subject to the *Act*;

- the *Act* regulates "any other marine activity" in relation to natural resource activities in Canadian waters or on the continental shelf;
- the *Act* distinguishes between three classes of ships:
  - a "Canadian ship": a ship registered in Canada with all duties paid;
  - a "non-duty paid ship": a ship registered in Canada but with duties unpaid (for example where the ship does not engage in the coasting trade);
  - a "foreign ship": any other ship not included in the above.

## Licensing of Non-Canadian and Foreign Ships

- the Canadian coasting trade is reserved to Canadian ships within a 12 mile limit of the Canadian coastline, or a 200 mile limit with respect to natural resource activities;
- the previously existing waiver system is continued so that non-duty paid and foreign ships may engage in the coasting trade for limited purposes if a temporary licence is obtained;
- a licence is issued by the Minister of National Revenue for a period of no more than 12 months to a non-duty paid ship if:
  - the National Transportation Agency (NTA) determines there is no Canadian ship is suitable and available to provide the service or perform the activity described in the application;
  - the applicable duties and taxes imposed under the *Customs Tariff Act* and *Excise Tax Act* have been paid; and
  - the vessel meets existing Canadian safety requirements.

A foreign ship must meet similar requirements in order to be granted a licence. In addition, the foreign ship must have in order all relevant documents which are issued pursuant to any shipping convention to which Canada is a party and must meet all Canadian safety and pollution prevention standards. It should be noted that the licensing system favors non-duty paid ships over foreign ships in that the NTA will look to both Canadian and non-duty paid ships when examining an application from a foreign ship to determine if there is a need for the service as proposed.

In determining whether a ship is "suitable and available", it is understood that the NTA may take into account material differences in economic factors such as freight rates and vessel efficiencies.

## Duties Payable

- the duty currently payable is 1/120 of the duty otherwise payable for each month the vessel is engaged in the coasting activity;
- the duty on commercial vessels is 25 percent and on drill rigs 20 percent. These rates have been reduced to 15 percent and 12 percent respectively under the Free Trade Agreement with respect to US vessels and similar reductions will apply with respect to Mexican vessels under NAFTA.

## Penalties

The maximum penalty that can be imposed for an offence under the *Act* is \$50,000 for each day that a ship is in contravention of the *Act*. An offending vessel can also be seized and detained.

## Exemption Clauses

Recent admiralty cases involving tugboat owners have illustrated the limited effect that limitation of liability clauses can have when closely examined by a court. These decisions emphasize the need for great care when drafting and revising exemption clauses in contracts of carriage if those involved in transportation intend to avoid liability for their own negligence or that of their employees.

The general rule is that a tug owner (or any carrier for that matter) may use an exemption clause in a contract to relieve herself, during the period of towage, from any of the ordinary obligations incident to the contract of towage. However, the exemption clause will be strictly interpreted by the courts. The burden is on the party relying on the exemption to prove that the particular loss caused to the other party was clearly within the scope of the exemption clause. If there is an ambiguity in the meaning of the exemption clause and it is capable of more than one reasonable construction, then the legal rule of *contra proferentum* applies. This means that an exemption clause will be construed against the drafter of the contract, which is usually the carrier.

Generally, the defendant in an action will not be exempt from liability for the negligence of its servants unless the contract expressly relieves the defendant of liability for such negligence. Therefore, it becomes important to have a well-drafted contract if one wants to avoid liability for negligence. A tugboat owner recently found this out the hard way.

In *St. Lawrence Cement Inc. v. Wakeham & Sons Ltd.*, the court considered a contract between the respective owners of a tugboat and a barge. While the barge was under tow by the tugboat, the tow line connecting the barge to the



tug broke because of the tugboat operator's negligence. As a result, the barge was grounded and became a total loss. During the course of their business relationship, the owner of the barge had renegotiated their contract so as to delete a clause which exempted the tugboat owner specifically from responsibility for its negligence. The exemption clause which remained stated that the "service will be supplied upon the condition that all towing of a vessel by a tug owned by the Tug Company is done at the sole risk of such vessel and of the owners thereof".

The court held that the fact that some of the exemption clauses were deleted was relevant to the interpretation of the remaining clauses. The phrase "at the sole risk of" the barge owner may have been sufficiently broad to initially exempt the tugboat owners from liability for any negligence on their part. However, since the contract had been altered and there remained no express reference to the exemption of liability for acts of negligence, the court held that the contract was now ambiguous enough to invoke the rule of *contra proferentum*. The tugboat owner, who prepared the contract, was therefore found liable and learned a nearly a two million dollar lesson in contract drafting.

In light of this decision, carriers should be diligent in making sure that the exemption clauses in their contracts make express reference to the absence of liability for acts of the carrier's negligence. This is now especially true where the exemption clause has been altered in the course of the business relationship.

Another interesting issue with respect to the limitation of liability for tugboat owners was addressed by the Federal Court of Canada in the case of *Engine & Leasing Co. et al. v. "Irving Maple"*. In this case, the towage contract incorporated the standard towing conditions agreed to by the Shipping Federation of Canada and the Eastern Canadian Tugboat Owners Association which provide exceptionally strict non-responsibility protection for tugs. The critical clause in this contract exempted the tugboat owner from all liability "while the tug was in attendance upon or fastened to or engaged in any manoeuvre for the purpose of making fast to or discharging from or proceeding clear from the vessel requiring the tug".

The tugboat owner subsequently agreed verbally and through an exchange of telexes to have the necessary repairs made to the barge before the actual tow commenced. Due to the faulty repair job, the barge sank while under tow and the tugboat owner was found liable. The court held that this agreement created a second contract and that the repair work was entirely

separate and apart from the tow. Therefore, negligence in the repair work was held not to be protected by the exculpatory clauses in the towage contract.

As a result of this decision, if tugboat owners are going to undertake to do any work other than the actual towage, they must now ensure that there is an exemption clause to cover such work if they wish to protect themselves from liability. The standard exemption clauses in the towage contract will no longer guarantee such protection.

If an exemption clause is deemed to be ineffective or if a tugboat has an accident with someone with whom it does not have a contract, the tugboat owner may still be able to limit his liability under the *Canada Shipping Act*. The *Canada Shipping Act* establishes maximum amounts for which the owners of "ships" can be held liable with respect to any loss of life, personal injury, loss of property or damage to property. In order to qualify for this limitation of liability, it must be established that the accident occurred without the actual fault or privity of the owner. The onus will be on the owner to prove that no such fault on his part existed.

The recent case of *Teixeira v. Teixeira* reiterated this well-established principle regarding the burden of proof and illustrates the increasing reluctance of Courts to allow limitation. The owner in this case allowed the boat to be operated by an inexperienced operator who had no knowledge of the meaning of buoys or other channel markers. The court held that this failure amounted to actual fault on the part of the owner which in turn contributed to the accident. Therefore, the owner was not entitled to limit his liability to the amount set under the *Canada Shipping Act*.

### Trucking Licence Moratorium Imposed in Ontario

On December 19, 1991 an amendment to the *Truck Transportation Act* (Ontario) was passed which put in place a moratorium on the granting of new intra-provincial operating authorities. Extra-provincial operating authorities may still be granted by the Ontario Ministry of Transportation (MOT) as may amendments of existing operating licences to include additional types of authorities (for example, a general freight authority may be amended to include authority to operate tank vehicles).

The amendments to the *Truck Transportation Act* do provide, however, that existing intra-provincial operating authorities may be transferred from the operator holding the licence to another party. Such transfers were prohibited prior to the amendments. The number of

commercial motor vehicles (CMVs) operated by a transferee under a transferred operating authority may not be more than the largest number of CMVs operated by the transferor during the 12 months prior to the transfer. If a transferor retains part of its operating authority, the aggregate number of CMVs operated under both the retained operating authority and the transferred operating authority may not be more than the largest number of CMVs operated by the transferor during the 12 months prior to the transfer.

An operator who currently holds an operating authority and wants to transfer all or part of it to another party must complete an Application for Transfer of an Operating Licence/Authority and file it with the Carrier Licensing Office of MOT. The transferee must submit a Certificate of Competency and all of the other documentation required as if the transferee were applying for a new operating licence together with an application fee of \$250.00.

Once the Application has been filed, it will be processed by MOT in accordance with the requirements of the *Truck Transportation Act*. MOT is required to give 30 days notice of the intention to issue an operating licence to the transferee in the Ontario Gazette. Within the 30 day period, any person may file a request with MOT that a hearing be held by the Ontario Highway Transportation Board to i) determine the fitness of the applicant, or ii) conduct a public interest test. If no such request is made, MOT must issue the operating licence to the transferee. The Minister of Transportation may also request a public interest test hearing, however, MOT's current policy is not to make such requests.

In order that a transferee may operate without having to wait for the permanent licence to be issued after completion of the above-described process, MOT will issue a temporary operating licence to the transferee. A separate application form is required and the fee is \$150.00. Also, MOT will deal with an application on a prospective basis. This is necessary in cases where a trucking business is being sold to the corporate transferee and the prospective shareholders of the corporate transferee have agreed to buy the shares of the corporate transferee contingent upon the permanent licence having already been issued.

*\* Peter G. Cathcart, Q.C. and Vernon V. Kakoschke are attorneys with McMillian Binch, a member of McMillian Bull Casgrain, a national association and international partnership in Toronto, Ontario.*



# Border Lines

## From South of the Border

by Francis X. Nolan, III and John E. Bradley\*

### The Bush Maritime Plan

On July 17, 1992, the Administration sent Congress a proposed measure to improve the prospects of the United States flag Merchant Marine. The bill was introduced in the House of Representatives as H.R. 5627 on July 21, 1992, entitled *The Maritime Reform Act of 1992*.

The measure as introduced primarily addresses the concerns of ocean carriers in setting up a "Contingency Retainer Program." The purpose of these provisions would be to make vessels available to meet national security requirements by providing for payments over a fixed seven-year period not to exceed \$2.5 million per ship for each of the first two fiscal years and declining thereafter to a level of \$1,600,000 per vessel for fiscal year 2000. Payments would be in consideration of the inclusion of a vessel in the Contingency Retainer Fleet. The bill provides that a vessel would not be ineligible for inclusion in the program "solely because it was not constructed in the United States." This has not gone over well with the US shipyard lobby. The Administration explains that the Contingency Retainer Program is intended to be a streamlined regime without unnecessary burdens of the sort presently imposed by the Operating Differential Subsidy Program, for example. In a covering letter to the House of Representatives, the Secretary of Transportation pointed out that

"... operators will be able to acquire vessels worldwide and operate them anywhere in the foreign trade and in conjunction with foreign-flag feeder

vessels. Operators will be free to compete efficiently and flexibly for international cargoes."

More significantly, the proposal would eliminate the duty on foreign ship repairs to US-flag vessels, which is presently in the Harmonized Tariff at the rate of 50 percent ad valorem.

Vessels of fifteen years of age or less included in ODS contracts would still be liable for inclusion in the Contingency Retainer Fleet. Those over fifteen years of age would be eligible provided application is made within ninety days of enactment.

H.R. 5627 would "sunset" the ODS program except for existing contracts. As to CDS, the proposal would permit certain vessels built with CDS to leave US-flag under certain circumstances prior to the termination of the CDS commitment provided that no Title XI debt remains unpaid.

Capital construction funds deposited in special accounts under Title VI of the *Merchant Marine Act* would be modified to permit use of CCF funds for vessels acquired worldwide, excluding only vessels built in subsidized foreign yards. Lease payments for new vessels could also be paid out of CCF funds except for vessels built with subsidy. The use of CCF funds would also be broadened to include construction of vessels for coastwise trades and inland waterways.

The three-year waiting period for foreign-built, US-flag vessels in the various preference cargo programs in the United States would be eliminated, and foreign-flag feeder vessels would be permitted to on-carry preference cargoes under the new proposal.

Significantly, the proposal would relax the citizenship requirements for transfer citizens to permit the transfer to and ownership of vessels by US corporations having foreign equity of any amount. However, this proposal would not moderate the 75 percent requirement in

place for coastwise vessels. H.R. 5627 would relax the equity restrictions for existing ownership as well as future acquisitions.

This is a very logical and practical step at a time when recent studies show that foreign ownership of US financial institutions stands at approximately one-third.

H.R. 5627 was referred jointly to the Committees on Merchant Marine and Fisheries and the Committee on Ways and Means of the House of Representatives. It has been the subject of much discussion and testimony. The shipyard lobby regards the measure as flaccid in redressing the perceived slights to that sector. Certainly while the measure advances some reasonable propositions, it fails to permit US-flag vessels to compete on an equal footing with foreign-flag operators in several respects. No likely legislation could impact on the differential in seagoing labor cost and the new bill does not ameliorate the tax burdens on US corporations and other aspects of the operation of US-flag vessels.

The measure is not intended to and does not address the question of US-controlled, foreign-flag shipping, which has suffered immense harm as a result of the 1986 Tax Reform Act with its more stringent rules on income realization applicable to US-controlled foreign corporations generally.

### Cruise Control

As we reported in the Summer issue of *Portus*, President Bush has signed into law provisions which permit US-flag cruise vessels to provide for gambling "cruises to nowhere" as have been conducted by foreign-flag cruise vessels operating out of US ports for some time.

Under the *Passenger Services Act* of 1886, transportation of passengers has been subject to restrictions analogous but not identical to those which affect the carriage of merchandise from point to point in the United States commonly known as the *Jones Act*. Cabotage



laws in the United States have always been construed to be inapplicable to carriage of merchandise and passengers from a point in the United States out to sea and back to the same point. This has never been exploited in the carriage of goods since very few shippers are interested in providing their merchandise with a cruise to nowhere. Passengers, on the other hand, have always enjoyed whiling away time at sea and prefer to return to the point of embarkation.

The hostility in certain organized quarters in the United States towards foreign-flag operators and their access to the US cruise market is reflected in subsequent attempts to close to foreign-flag gambling cruise operators those privileges which have only this year been opened to US-flag operators. H.R. 5257 was introduced by Representative Gene Taylor (D-Miss.) on May 21, 1992, and was referred to the House Merchant Marine and Fisheries Committee which approved it with amendments on June 18, 1992. The Administration has voiced its opposition to this latest initiative. H.R. 5257 was ordered reported by the Merchant Marine and Fisheries Committee without further amendment on July 1, 1992.

At the same time, a special Administration task force appointed by President Bush is proposing to permit foreign-flag passenger vessels to carry passengers between US ports for the first time. The thrust of the White House proposal would be the creation of tourism and jobs, particularly on the west coast and in Florida, which are heavily dependent on the cruise industry. *Jones Act* aficionados have already raised feverish objections to this aspect of the Administration's proposals.

The House of Representatives Committee on Education and Labor recently approved without amendment a bill introduced by Representative William L. Clay (D-Mo.), H.R. 1126, which would extend certain provisions of US labor law to foreign-flag ships. The measure would extend worker protections under the *National Labor Relations Act* and the *Fair Labor Standards Act* for five years to foreign-registered vessels that call at US ports. We have previously reported on this bill. The bill would apply specifically to foreign vessels that regularly transport passengers to and from US ports, factory ships and liquid or dry-bulk cargo vessels which are found to engage in US-foreign trade. While container vessels and others not specifically mentioned are not included in the coverage of the bill, H.R. 1126 is of concern to the foreign-flag cruise industry in particular. Prospects for passage of the bill

this year are not considered very good, although the mood of unenlightened protectionism is more virulent in the Congress this year than in years past.

## The Gibbons Bill

We have previously reported in every recent issue of *Portus* on the progress of the so-called Gibbons Bill, H.R. 2056, known as the *Shipbuilding Trade Reform Act* of 1992. As previously reported, this bill passed in the House of Representatives by an overwhelming margin and is being entertained at the present time by the United States Senate under reference to the Senate Committee on Finance. This may be the final resting place of this bill in light of the Senate's greater reputation for sobriety and President Bush's oft-stated intention to veto. Nonetheless, it appears that the lobbying efforts of US shipbuilders are concentrating on either the inclusion of protective provisions against subsidies in the Bush Administration's maritime task force proposals or, less enthusiastically, in the promotion of sanctions authority in the Federal Maritime Commission similar to that exercised by the Commission pursuant to Section 19 of the *Shipping Act* of 1984, on account of unfair practices in foreign countries. In any event, persons who may be affected by the provisions of the Gibbons Bill are right to maintain their efforts in opposition to this unwieldy and distressing proposal.

To the great annoyance of the US shipyards, the United States International Trade Commission issued its report entitled, *Shipbuilding Trade Reform Act of 1992: Likely Economic Effects of Enactment*, June 1992. The ITC report begins with a description of the deplorable state of commercial shipbuilding in the United States, which has not produced a single commercial vessel for export since 1960, and which has lost, in fact, much of the US flag market. The ITC estimated that enactment of the Gibbons Bill "would increase foreign ship prices by 23.5 percent on average. . . ." The Commission concluded as well that, by virtue of the enormous gap between the cost of building vessels in the United States and elsewhere, passage of the Gibbons Bill would "not make US shipbuilders competitive with foreign shipbuilders" and that US shipbuilders would still have to decrease their cost relative to foreign producers by more than one-third in order to be competitive.

The ITC also found that, by virtue of increasing the cost of ships, the result would be higher shipping costs which would

effectively reduce the United States' terms of trade, "the rate at which the United States exchanges exports for imports with the rest of the world." The ITC estimated that the Gibbons Bill would result "in a decrease in US exports of merchandise of \$27 million and would increase exports of durable and nondurable manufactured goods while decreasing exports of agricultural products and other bulk commodities for which shipping is a relatively large portion of the value." The Commission also anticipated that H.R. 2056 would adversely affect US port activity and encourage diversion through Canadian and Mexican ports not affected by the imposition of penalties set forth in the Gibbons Bill. The decrease in annual US port activity estimated by the Commission would be \$4.6 billion in cargo value, and the reduction in employment in US ports is estimated at 633 full-time equivalent persons. The impact of those changes is expected "to fall predominantly in the Pacific Northwest and Great Lakes ports."

## OPA 90 - Vessel Response Plans

On June 19, 1992, the US Coast Guard published its Notice of Proposed Rulemaking to establish regulations requiring response plans for certain vessels that carry oil in bulk as cargo and certain additional requirements for such vessels operating in Prince William Sound, Alaska. These regulations are mandated by the *Oil Pollution Act* of 1990 (OPA 90). The definition of oil is not limited in the proposal only to petroleum, fuel oil, oil sludge, oil refuse and oil mixed with waste other than dredge spoils, but also includes animal and vegetable oils.

The proposed regulations apply to vessels that carry oil in bulk as primary cargo, vessels that carry oil in bulk as secondary cargo in any significant quantity (such as fish processing, offshore supply or cargo vessels carrying oil in large portable tanks) and to tank barges.

Vessels designed to carry oil in bulk as cargo but which are not actually carrying oil as cargo or cargo residue are not included within the ambit of the Rulemaking. Vessels in lay-up, and vessels carrying cargoes other than oil, or vessels that enter in ballast for repairs or reconstruction will also not be included. However, those vessels which are moored for use as oil storage facilities will be covered by the Response Plan regulations. Rulemaking proposes a definition of operator so as not to include the operator of a towing vessel with respect to the vessel being towed.

The proposed regulations establish specific



requirements for Response Plans and are to be used by vessel owners and operators to develop plans for response to the vessel's "worst-case discharge to the maximum extent practicable."

The Rulemaking requests input from the public on whether or not regulations applicable to tank vessels generally should be applied to unmanned tank barges. The proposal sets out requirements for training of personnel and pre-positioning of cleanup equipment for cleanup of open water as well as shoreline at various points along the US water and coastal ways where tank vessels operate. Planned drill programs are also required to be a part of the Response Plan.

Perhaps the most controversial provisions of this Rulemaking involve the designation of the unfortunate creature to be known as the "qualified individual." The "qualified individual" would be an individual who would have "full authority of the vessel owner or operator to implement the Response Plan, contact, and if necessary, contract with response resource identified in the plan, and serve as liaison with the federal on-scene coordinator." Under the draft regulations, this individual must "speak and understand English, be located in the United States, and be available on a 24-hour basis." The proposal would specifically disqualify persons aboard the vessel from serving as the qualified individual. Although the term "individual" is used, the definition permits the vessel's owner or operator to designate an organization to carry out the responsibilities of the "qualified individual."

The "qualified individual" is required by the draft regulations to have "unconditional written authority to implement the vessel's Response Plan." The specific provision proposed by the Coast Guard further explains what implementation is intended in connection with this unconditional written authority. Activating and engaging in contracting with required oil spill removal organizations and acting as liaison with a pre-designated, federal, on-scene coordinator are included. More troubling is the requirement that the "qualified individual" have the "unconditional written authority" to obligate "either directly or through prearranged contracts, any funds required to carry out all required or directed oil response activities." Since the level and cost of "required or directed oil response activities" is not and cannot be known in advance of a casualty, the qualified individual is essentially required by this proposal to be authorized to sign a blank check.

Another concern is that the "qualified individual" may be more appropriately named *velcro man* for his likelihood to attract attention as a potential defendant in any oil spill situation when a governmental entity or private claimant may find his performance inadequate or tardy.

As we have previously reported in the Spring issue of *Portus* the vessel response plan proposal has been subject to a negotiated rulemaking proceeding. The previously established Negotiated Rulemaking Committee (Reg Neg) is scheduled to reconvene in Washington August 18-21 in order to review and discuss the comments received by the Coast Guard, which were due by August 3, 1992. The passage of these regulations in some form in the near future is assured by virtue of the OPA '90 timing requirements for the establishment of regulations and the requirement of ship operators to submit vessel response plans for approval by February, 1993 and to carry and implement such plans by August, 1993.

*Another concern is that the "qualified individual" may be more appropriately named velcro man for his likelihood to attract attention as a potential defendant...*

## OPA 90 - Escort Services

OPA's Section 4116, on pilotage, requires two "escort vessels" for single-hull tankers over 5,000 gross tons transporting oil in bulk in Prince William Sound, Alaska and Rosario Strait and Puget Sound, Washington. On July 7, 1992 the US Coast Guard issued a Notice of Proposed Rulemaking (NPRM) setting forth draft regulations to implement these provisions. This NPRM only applies to tank vessels carrying oil in bulk in the two above-mentioned areas: Prince William Sound, Alaska and Rosario Strait and Puget Sound, Washington.

Under the draft language in the NPRM, "escort vessels" are broadly defined to include a variety of commercial vessels engaged in the service of pulling, pushing and/or hauling alongside. It is the responsibility of the Master

of a tanker travelling in the two specified areas to select suitable escort vessels. To aid the Master in making a determination as to the escort vessel's suitability, the NPRM provides that the owner or operator of escort vessels must have written information available concerning the escort vessel's capabilities.

The NPRM envisions that the Master, the pilot and the persons in command of the escort vessels would engage in a "pre-escort conference." It states that the following topics must be discussed during the pre-escort conference:

- (1) The destination, route, planned speed, traffic, weather, tide and sea conditions;
- (2) The type and operational status of the communications, towing, steering and motion equipment on the tanker and escort vessels; and
- (3) Information provided by the pilot(s), by the escort vessel operators and in the written information on escort vessel capabilities.

Comments on this NPRM are due on or before September 8, 1992.

## Proposed Ban on Home Court Advantage

On July 7, 1992 Representative Walter Jones (D-N.C.) introduced H.R. 5564 which would amend the *Shipping Act* of 1984 by prohibiting controlled carriers from entering into service contracts which require shippers and shippers associations to resolve legal disputes in the jurisdiction in which controlled carrier's vessels are registered. The bill has been referred to the House Committee on Merchant Marine and Fisheries.

## Foreign Asset Control - Yugoslavia

On May 30, 1992 President Bush — acting under authority of the *International Emergency Economic Powers Act* — issued Executive Order 12810 the first of two such orders dealing with the ongoing civil war in the former Republic of Yugoslavia. The order blocked all property and interests in property of the Governments of Serbia and Montenegro that are in the United States, including all property and interests in property held in the name of the Socialist Federal Republic of Yugoslavia or the Federal Republic of Yugoslavia.

On June 5, 1992 the President issued Executive Order 12810 which prohibits importation or exportation of goods, services



and technology between the United States and the Federal Republic of Yugoslavia (Serbia and Montenegro). The Order also prohibits a wide range of transportation related activities involving air freight and vessels. In addition, United States persons are prohibited from performing any contract in the Federal Republic of Yugoslavia (Serbia and Montenegro).

The Executive Orders authorize the Secretary of the Treasury to promulgate rules and regulations to carry out the provisions of the Orders. Such regulations are still being written as this article goes to press. In the meantime, seven "general licenses" have been issued by the office of Foreign Assets Control (FAC) which provide interim guidance on transactions which are allowed under the Executive Orders. Copies of these licenses may be obtained from FAC.

## Conference Independent Action

On July 16, 1992 the Federal Maritime Commission (FMC or the Commission) published a Notice of Proposed Rulemaking (NPR), the purpose of which is "to preserve an unencumbered right of independent action by conference members" under the *Shipping Act* of 1984. This rulemaking proceeding was initiated by an Advanced Notice of Proposed Rulemaking that the Commission published on April 21, 1992.

The proposed rule would amend the Commission's regulations to add new requirements concerning conference agreement independent action (IA) provisions. The proposed rule would:

- Interpret the terms "adopt" as it pertains to the filing of IAs that match an originating carrier's IA;
- Specify the conditions under which conference members could adopt another member's IA time/volume rate;
- Prohibit conferences from establishing notice periods, other than the notice period required by Section 5(b)(8) of the *Shipping Act of 1984* for taking initial IAs;
- Prohibit conference provisions that provide authority for allocation of costs on a usage basis for publishing and maintaining member lines' IAs; and
- Prohibit conference provisions that authorize automatic expiration dates for IAs.

## Proposed Sanctions Against Korean Forwarders and NVOCCs

On January 8, 1992, the Federal Maritime Commission published a proposed rule pursuant to Section 19(1)(b) of the *Merchant Marine Act*, 1920, in response to a petition for relief from conditions allegedly unfavorable to shipping in the US/Korea trade. Section 19 of the *Merchant Marine Act*, 1920, authorizes the Commission to take regulatory action to correct unfavorable shipping conditions in US foreign oceanborne commerce.

The proceeding was initiated on a petition for relief filed by Direct Container Line Inc. Direct Container Line alleged that it has been prevented by Korean law from establishing a branch office in Korea and from operating in the Korean inbound trade. Numerous US commentators supported the contention that Korean law "imposes a strict nationality based requirement for participation as a freight forwarder or NVOCC in the trade from Korea, and further provides for penalties for violation, including imprisonment and substantial fines."

The Commission's investigation concluded that as a direct result of Korean laws, regulations, policies and practices, conditions exist which:

- Preclude or tend to preclude non-Korean NVOCCs and freight forwarders from competing in the trade on the same basis as Korean NVOCCs and freight forwarders;
- Deny NVOCCs and freight forwarders owned and operated by non-Korean nationals equal and effective access to cargo moving from Korea to the US;
- Discriminate between NVOCCs and freight forwarder-owned and operated by Korean nationals and NVOCCs and freight forwarders owned and operated by non-Korean nationals; and
- Are otherwise unfavorable to shipping in the foreign trade of the US.

The sanction proposed by the Commission is the suspension of freight forwarding licenses and NVOCC tariffs for Korean based and Korean controlled firms.

## Luxury Taxes

Earlier this year, Congress passed H.R. 4210, a comprehensive tax bill which was subsequently vetoed by President Bush. Congress has recently dusted off a prior version, H.R.

3040, and reincorporated into it a number of provisions which were found in H.R. 4210. Among these are changes in luxury excise taxes on a number of items.

Internal Revenue Code Sections 4001-4012 currently impose a 10 percent excise tax on that portion of the retail price in excess of \$30,000 in the case of automobiles; in excess of \$100,000 in the case of boats; in excess of \$250,000 in the case of aircraft; in excess of \$10,000 in the case of jewellery; and in excess of \$10,000 in the case of furs. The tax applies only to the first sale of those items and was due to extend to January 1, 2000.

Although Congressional tax puritans intended that these imposts enhance the Treasury at the expense of the unworthy wealthy, in fact the boat, aircraft, jewelry and fur industries have suffered job losses and increased unemployment as found by the Senate Committee on Finance which reported H.R. 3040 out of Committee on June 19, 1992.

H.R. 3040 would repeal the luxury excise tax imposed on boats, aircraft, jewelry and furs and maintain the tax on automobiles subject to an increasing threshold indexed to inflation occurring after 1990. To compensate for the anticipated reduction in revenue by virtue of the change, H.R. 3040 also contains provisions to increase federal excise taxes on gasoline and special motor fuels used in highway transportation, certain recreational trail vehicles and boats. The bill would eliminate the difference in treatment between gasoline and diesel fuel on pleasure boats. The bill had already passed the House of Representatives on September 17, 1991.

The same provisions to eliminate luxury tax are contained in the proposed *Revenue Act* of 1992, H.R. 11, reported out of the House Ways and Means Committee on June 30, 1992. A far more extensive measure, H.R. 11 began life as the *Enterprise Zone Tax Incentive Act* of 1991 introduced into the House of Representatives on January 3, 1991. The bill was resuscitated as a vehicle for many of the provisions contained in the vetoed H.R. 4210.

## Bentley's Big Box Bill

Representative Helen D. Bentley (R-Maryland) had introduced H.R. 3598, to be entitled *The Intermodal Safe Container Transportation Act* of 1991, on October 22, 1991. The bill was referred jointly to the Committees on Public Works and Transportation and Energy and Commerce and has since been lumped together in Congressional considerations with other provisions affecting



the trucking industry. H.R. 3598 would amend certain parts of the transportation laws to provide that

"... any person initially tendering to a carrier of any property any loaded container or trailer in interstate or foreign commerce having a gross weight of more than 10,000 pounds must give the carrier prior notification of the total cargo weight inclusive of packing material and pallets in the container or trailer and a description of the cargo loaded therein."

The information must be verified by the person providing it and must be included on the bill of lading or other shipping document delivered to the initial carrier prior to receipt of the container or trailer for transportation by the carrier. Failure to provide the required information or the making of any demand on a carrier to transport a loaded container or trailer without such verification or delivering a container or trailer with a weight in excess of that permitted by applicable state or federal law could result in imposition of civil or criminal penalties. The provisions would apply only to the first person tendering the container or trailer in an intermodal chain and would not apply in any event to either a carrier or a terminal operator. Each carrier in the intermodal chain is required only to pass on the verified information with the documents.

The bill also would permit any state or local government to assess fines and penalties for violations of either state or federal highway weight laws against the owners of cargo being transported in any vehicle found in violation of the cargo weight limits. A carrier who is forced to post bond or pay any fines, penalties, costs or interest resulting from a false or erroneous verification tendered to the carrier would have a lien against the cargo for the amount of such fine, penalty, cost or expense.

The bill defines "beneficial owner" as a person who does not have title to property but has rights in the property which are the normal incident of owning the property. This provision is intended, no doubt, to address the situation where shipping documents pass title or appear to pass title to the carrier in possession. "Intermodal transportation" is defined as "the successive carriage from an origin point to a destination point by more than one mode of transportation, such as carriage from Europe to the United States east coast by water carrier and then from the United States east coast to an inland United States destination point by motor carrier." The definition includes carriage

by more than one mode of transportation both under a single bill of lading and under separate bills of lading. The "intermodal chain" is deemed to refer to "all persons arranging for or providing any part of intermodal transportation."

The Bentley Bill is presently before the House Public Works and Transportation Committees sub-Committee on Surface Transportation along with several other issues.

### **In With the Good Air, Out With the Bad**

Among other things, the *Clean Air Act* (CAA), as amended in 1990, requires the Environmental Protection Agency to promulgate regulations by the end of the decade which establish emission standards by category for major sources and area sources of hazardous air pollutants (HAPs). The EPA published its initial list of categories of major and area sources in the Federal Register on July 16, 1992, pointing out that the list is not all-inclusive and that the process is ongoing. "Major source" is defined in the CAA as "any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls in the aggregate ten tons per year or more of any hazardous air pollutant or twenty-five tons per year or more of any combination of hazardous air pollutants."

---

*According to the proposal, there are 180,000 workers in the maritime industries who may currently be exposed to toxic substances and as to which there are no or inadequately protective exposure limits.*

---

The diligent detectives of the EPA have identified boat manufacturing as a major source of HAP emissions and that industry will be affected by standards applicable to reduction of emissions with respect to styrene. Other aromatic endeavors which made the

EPA hit list include radionuclide emitters, coke ovens, publicly-owned treatment works, oil and gas wells and pipeline facilities. However, marine vessel loading and unloading facilities are not listed on the notice because the EPA "intends to regulate HAPs as well as emissions of volatile organic compounds and other pollutants" under other provisions of the CAA which require the EPA, in conjunction with the US Coast Guard, to establish emission standards for VOCs and any other air pollutants from loading and unloading tank vessels. The EPA states that it is "advisable to address all tank vessel emissions in a comprehensive, multi-faceted manner" after consulting with the Coast Guard and giving due regard to safety impacts in developing those standards.

In the meantime, EPA is in the process of conducting a series of public workshops and is soliciting input from industry and the public concerning the impact of "non-road engines" on air pollution. This notice focuses heavily on marine engines and EPA has indicated that it is conducting a separate review of marine engines by fuel and size. The most recent workshop took place on July 29, 1992 in Ann Arbor, Michigan.

Not to be outdone, the Occupational Safety and Health Administration (OSHA) of the US Department of Labor has issued a proposed rule on air contaminants which would set new exposure limits for the construction, maritime and agricultural sectors. The proposal was published in the Federal Register on June 12, 1992 and sets limits for approximately 210 substances currently regulated in the construction and maritime industries and adds new exposure limits for approximately 160 chemicals which may affect workers in those sectors. According to OSHA, "the new standard will prevent approximately eight to thirteen deaths and 31,000 illnesses per year."

According to the proposal, there are 180,000 workers in the maritime industries who may currently be exposed to toxic substances and as to which there are no or inadequately protective exposure limits. The new exposure limits apparently have been reached after OSHA consulted with the Construction Advisory Committee and the Shipyard Advisory Committee as well as representatives of the longshore and marine terminal sectors. Among the substances as to which OSHA is opening its record and requesting input are fiberglass, mineral wool, asphalt and cotton dust in the maritime industries. The notice specifically requests input from the maritime industry on the percentage of tank cleaners,



welders and painters currently wearing personal protective equipment including respirators and the same data on other workers in the maritime industry. The attachments and tables to this proposal are so extensive as to tax the mind of a chemist and the endurance of a railway tariff clerk.

## Tax Follies

Representative Andrews of New Jersey introduced H.R. 5279 on May 28, 1992, a proposal to right all wrongs. The bill is described in summary as an effort to "provide for economic growth by reducing income taxes for most Americans, by encouraging the purchase of American-made products, and by accelerating transportation-related spending and for other purposes." In addition to proposing certain changes in tax brackets and tax rates, the measure would provide for the deductibility of state and local general sales taxes imposed in respect of qualified sales at retail of American-made property. Other provisions address increases in spending limits on various capital projects identified for investment in the *Intermodal Surface Transportation Efficiency Act* of 1991 and the *Federal Transit Act*. Because of the serendipitous selection of categories which this masterpiece addresses, it was referred jointly to the Committees on Ways and Means, Public Works and Transportation, Banking, Finance and Urban Affairs, Post Office and Civil Service, and Appropriations. The bill is presently undergoing review in various subcommittees.

On May 27, 1992, Representative Dan Rostenkowski (D-Illinois) introduced H.R. 5270 to be entitled the *Foreign Income Tax Rationalization and Simplification Act* of 1992 which is intended to "improve the application of the tax laws to American businesses when operating abroad, to eliminate the deferral of tax on income of controlled foreign corporations, and for other purposes." The bill was referred to the Committee on Ways and Means. Among other things, the bill would provide that the taxable income of each member of an affiliated group would be determined by allocating and apportioning interest expense of each member as if all members of such group were a single corporation. The bill would also make changes adversely affecting determinations of foreign tax credit in case of the alternative minimum foreign tax credit. Tax on income of controlled foreign corporations known as "Sub-part F Income" would be changed to the extent that

excludable foreign source income would be included within US income except to the extent that such income is exempt from taxation pursuant to a treaty obligation of the United States.

## *...sales to foreign corporations, foreign individuals and foreign partnerships will still require prior MARAD approval.*

Certain other provisions would increase the tax liability of foreign persons having US-related income. Included among these provisions is a section which would address dispositions of stock in any domestic corporation by an individual or corporate shareholder holding 10 percent or more ownership interest, the proceeds of which would be treated as "US effectively connected income." Hearings were held on this bill on July 21-22 in the House Ways and Means Committee.

## MARAD Rules on Vessel Transfers to Aliens

In 1988, Congress recodified and amended the *Ship Mortgage Act* and various other provisions of Title 46 of the United States Code dealing with shipping. Among the amendments were provisions intended to facilitate the financing of United States flag vessels by expanding the category of permissible mortgagees to include foreign-owned financial institutions. The US Maritime Administration (MARAD) thereupon embarked on a revision of its regulations dealing with the transfer of interest in US-flag vessels to aliens. MARAD first published an Interim Final Rule to accommodate the changes made by the *Ship Mortgage Act* Amendments on February 2, 1989, and requested comment on its convoluted provisions establishing guidelines for transfers to aliens. In so doing, MARAD provoked substantial comment from the public on the meaning of the phrase "controlling interest" in the context of sales and charters of vessels to foreigners. On June 3, 1992, MARAD ended this tortured process with the issuance of a Final Rule.

Among the revised sections is a general approval by MARAD to a broad range of transactions other than the transfer of registry

or operation under authority of a foreign country. A number of commentators in the earlier rulemaking proceedings had complained that US-flag vessel owners were not able to transfer US-flag vessels to other US corporations if those transferee corporations were owned by aliens. MARAD included such transfers under its general approval, making exceptions for vessels in the coastwise trade, sales for scrapping and certain other situations.

Sales to foreign corporations, foreign individuals and foreign partnerships will still require prior MARAD approval. None of these changes affect the restrictions on the transfer of vessels encumbered by Title XI mortgages or burdened under construction differential subsidy contracts or similar arrangements with the Maritime Administration. All of the general approvals are subject to revocation in the event of a national emergency or war. MARAD viewed transfers to foreign-controlled US corporations as less threatening to the national interest since requisition and control of the vessels in time of war was still possible.

MARAD reiterated its support of the more stringent coastwise policies reflected in the *Shipping Act*, 1916 and elsewhere as to vessels engaged in the transportation of merchandise or passengers between points in the US.

MARAD retained a general approval for ship mortgages given to non-citizens of smaller non-coastwise qualified vessels and certain landlocked vessels. Approval also extends to mortgagees who are federally insured depository institutions as to non-coastwise vessels.

In another development, the United States Court of Appeals for the Third Circuit upheld MARAD's interpretation of US law that the parent corporations of subsidiaries operating vessels in the coastwise trade be themselves 75 percent owned by US citizens. In *Conoco v. Skinner*, No. 91-3589, 1992 US App. LEXIS 15988 (3d Cir. July 16, 1992), Conoco and its parent, Dupont, challenged the "look-through" provisions of the MARAD regulations. MARAD has consistently interpreted Section 9 of the *Shipping Act* and its own regulations to mean that corporate owners at each tier must be United States citizens within the meaning of Section 9, i.e., 75 percent owned by United States citizens. This standard could not be met by Conoco and its parent Dupont because Dupont's parent was ultimately less than 75 percent US citizen-owned, with substantial Canadian investment.



Conoco is entitled, in the MARAD view, to operate barges in US coastwise trade with respect only to its own proprietary cargoes under the so-called Bowaters Amendment. Conoco wished to expand its employment of the barges to carry cargoes for unrelated entities as a contribution to its cost of operation. However, MARAD's regulation provides that vessels engaged in performance of Bowaters operations may not be engaged in for-hire transportation except as a service for a parent or a subsidiary of the Bowaters Corporation. The issue as stated by the court is "whether a Bowaters Corporation has unfettered authority to bareboat charter vessels from other corporations for the transportation of non-proprietary cargo as a common carrier." The answer is apparently "no."

The Court of Appeals' decision clearly follows longstanding MARAD interpretation. The real issue is a legislative one, whether the economically wasteful confines of the *Jones Act* and the overstated impact of national security concerns ought to be dismantled and dismissed from the US Shipping Regime. The answer rather suggests itself. Whether the US Congress has the intestinal fortitude to face various *Jones Act* lobbies in the United States is quite another question.

## Shoestrings for Foreign Aid

We have previously reported on proposed amendments to the *Foreign Assistance Act* of 1961, which would require that cash transfers to foreign countries and P.L. 480 cargoes be carried substantially on US bottoms. Representative Torrecelli and 36 of the usual suspects sponsored H.R. 5405 on June 16, 1992. This proposal, like its unsuccessful predecessors, would amend the *Foreign Assistance Act* of 1961 to provide, among other things, that future cash transfer assistance to foreign countries be used to purchase goods and services in the United States to the extent that the recipient country does not produce those goods and services. The proposal would require the President to insure that ports around the United States would be equitably treated in the allocation of shipments of United States goods purchased under such programs. The bill also would grandfather earlier agreements in existence as of April 1, 1989, between the United States and foreign countries that required only 50 percent of bulk shipments of US grain to be shipped on privately-owned, United States-flag, commercial vessels to the extent such vessels are available at fair and reasonable rates for such

vessels. This bill is before the House Committee on Foreign Affairs.

## Auto-Eroticism Continued

We previously reported on H.R. 4100, a bill introduced by Representative Richard Gephardt (D-Missouri), entitled *The Trade Enhancement Act* of 1992. This bill has since died on the vine, to be replaced instead by another round number, H.R. 5100, also questionably titled *Trade Expansion Act* of 1992, introduced by Representative Dan Rostenkowski, Mr. Gephardt and a number of others on May 7, 1992. The bill provides for the extension of the so-called "Super 301" authority for five additional years through 1997. The measure mandates review of petitions alleging that a foreign country has failed to comply materially with the terms of a trade agreement (excluding the US-Canada Free Trade Agreement and the US-Israel Free Trade Agreement) and that such failure has caused an "interested person" to suffer adverse effects in its "significant economic interest." Special provisions for initiation of Section 301 investigations concerning the access of United States rice and rice products to the Japanese, Korean and Taiwanese markets as well as for the international trade in motor vehicles and parts.

*...demonstrates the enormous range of responsibilities delegated to the United States Coast Guard from oil pollution, transportation of hazardous materials, safety of life at sea, drug interdiction, to recreational boating safety programs.*

The House Ways and Means Committee dropped provisions which would have required the President to enter into negotiations with the government of Japan for the purpose of concluding a voluntary restraint agreement to provide for the imposition of limitations on the aggregate number of passenger automobiles

and light trucks that may be exported to the United States from Japan during each of the years 1992 through 1999.

The bill still includes the main elements of the Customs modernization bill, on which we have previously reported. These provisions have been previously introduced as H.R. 3935 by Representative Sam Gibbons (D-Florida).

H.R. 5100 passed in the House of Representatives by a wide margin of 280 to 145. The Senate is presently considering the measure, and the White House has promised a veto in any event. It is understood that the Senate is somewhat cool to this bill in light of its obvious potential for adverse impacts on employment in the United States, increased prices of automobiles and the negative impact on the United States position in attempting to conclude a reasonably successful Uruguay round of the GATT negotiations. This bill is currently pending in the Senate Finance Committee.

## The Rational Approach to Pollution

The *Comprehensive Environmental Response Compensation and Liability Act* of 1980 (CERCLA), as amended, establishes a scheme of no-fault liability for owners of sites found to contain hazardous materials. The responsibility of such persons to effect cleanup and reclamation of affected real properties is provided for without regard to the fault, complicity or even knowledge of the current owner. Representative Wayne Owens (R-Utah) introduced H.R. 5609 on July 9, 1992, into the House of Representatives. The bill describes itself as the *Superfund Equitable Liability and Improved Clean-up Act*. The no-fault language of CERCLA would be changed to provide for a scienter requirement of at least knowledge or the violation of an environmental statute, rule, plan approval or special order in order to cause any such person to be liable for cleanup of environmental damage.

The bill would also require the Environmental Protection Agency (EPA) to establish regulations providing for "numerical cleanup standards for each hazardous substance, pollutant and contaminant" which would apply to any remedial actions required at any site or facility on the national priorities list of superfund sites. The term "numerical cleanup standards" is defined in the bill to mean the "parts per million concentrations of hazardous substances, pollutants or contaminants in soil, surface water and ground water which must be achieved following the completion of remedial action" at any such site or facility.



This bill is presently under reference to the Committees on Energy and Commerce, Public Works, and Ways and Means, and seems unlikely to pass in an election year, where each member of Congress is determined to appear more environmental than Woodsy Owl.

## Coast Guard Proposal for Dry Cargo Vessels

On July 22, 1992, the US Coast Guard published a Notice of Proposed Rulemaking to implement the new International Maritime Organization rules regarding subdivision and damage stability for dry cargo vessels. These international standards, hammered out over a period of years, went into effect as of February 1, 1992. The Coast Guard considered the rules in terms of two vessel types: (1) container vessels and other traditional cargo vessels loading and unloading vertically, and (2) roll-on/roll-off vessels loading and unloading horizontally.

Vessels which are vertically stowed and unstowed have more fixed transverse bulkheads and therefore are more compartmentalized. Ro-ro vessels, as they are known to the cognoscenti, are more free of transverse bulkheads in order to facilitate the driving on and off of cargo loads over the length of the vessel. For that reason, ro-ro vessels generally do not have the same compartmentalization and are therefore more susceptible to flooding and sinking than other dry cargo vessels.

The Coast Guard notes that US-flag vessels built with subsidy or Title XI mortgage insurance have generally been required to have movable bulkheads and doors in order to increase subdivision and meet a "one-compartment" standard. This has apparently not been the case to the same degree on other ro-ro vessels throughout the world. The new regulation requiring increased subdivision and damage stability compartmentalization will apply to new cargo ships of 500 gross tons or more. A "new ship" is defined in the regulations as one having a contract date of February 1, 1992 or later, or one with a keel laying on or after August 1, 1992, or delivery on or after February 1, 1992.

The Notice indicates that the Coast Guard and the IMO are considering complementary regulations to apply to vessels less than 328 feet (100 meters) although there is some concern that the subdivision and compartmentalization of smaller vessels proportionally would impede or prohibit substantial cargo operations.

## What Do You Do With a Drunken Sailor?

Review of the Coast Guard Budget Authorization Bill, H.R. 5055, demonstrates the enormous range of responsibilities delegated to the United States Coast Guard from oil pollution, transportation of hazardous materials, safety of life at sea, drug interdiction, to recreational boating safety programs. The Budget Bill was amended in the House of Representatives to include provisions increasing fines and providing for mandatory boating education for intoxicated recreational boaters and Coast Guard coordination of federal and state efforts on safe boating.

*...in order to permit the Coast Guard to complete further negotiations with foreign governments, particularly Canada and the European community, for mutually recognized procedures for drug-testing on US-flag vessels in foreign waters and foreign-flag vessels in US waters.*

H.R. 5055 also advances the Coast Guard's involvement with foreign cruise vessels, taking note of the fact that the Coast Guard already has wide latitude to insure safety on US-flag cruise ships. The June 15 report of the House Committee on Merchant Marine and Fisheries, submitted with the bill, notes that, under international law, the flag state has most responsibility for insuring safety and investigating accidents on board its nation's vessels. That notwithstanding, the Committee notes that the US is signatory to the SOLAS Convention, which requires it to accept a valid SOLAS Certificate issued by a flag state, but also permits the port state to reject such a Certificate when "there are clear grounds for believing the condition of the ship or of its equipment does not correspond substantially with the particulars of any other certificates, or that the ship

and its equipment are not in compliance" with certain other SOLAS regulations.

H.R. 5055 would also amend existing law to enable the Coast Guard to inspect foreign-flag vessels in US ports for more than simply lifesaving and propulsion equipment. The Committee notes that this is a "technical change to conform US law to SOLAS" and that the amendment is not intended to expand Coast Guard authority beyond that authorized by SOLAS.

The Department of Transportation, in which the Coast Guard is situated, has opposed a number of provisions in this measure concerning designated facilities improvements and pre-positioning of oil-spill cleanup equipment as well as other specified expenditures on the grounds that they unduly restrict the Coast Guard's flexibility to accomplish the same ends using the most cost-effective means. Such provisions no doubt highlight those areas where the Congress persons have endeavored mightily to "bring home the bacon" to their own districts.

The bill was passed by the House by a vote of 304 to 22, introduced in the Senate and referred to the Senate Commerce Committee for consideration on June 24.

## Delays Announced in Overseas Drug-Testing Program

The US Coast Guard published a Final Rule on July 14, 1992, extending the implementation of its drug-testing program to January, 1995, in order to permit the Coast Guard to complete further negotiations with foreign governments, particularly Canada and the European community, for mutually recognized procedures for drug-testing on US-flag vessels in foreign waters and foreign-flag vessels in US waters.

On November 21, 1988, the Coast Guard, along with the other agencies of the Department of Transportation, adopted regulations requiring pre-employment, post-accident, reasonable cause and random drug-testing. Persons required under other federal laws and regulations to undergo periodic medical examinations are also required to take drug tests at each such time. These rules applied both within and without the United States, although foreign procedures were to depend on their consistency with foreign local laws or policies. Therein lies the rub.

Also on July 14, 1992, similar extensions of time for implementation were announced for the same reasons by the Federal Aviation Administration, the Federal Highway Admin-



istration, the Federal Railroad Administration, and the Research and Special Programs Administration, all within the Department of Transportation.

## Temporary Canadians

The Immigration and Naturalization Service (INS) issued a Final Rule amending US immigration regulations in order to facilitate the temporary entry of Canadian citizens coming to the United States to engage in professional activities. The Rule was reached through the consultative process provided in Article 15 of the United States-Canada Free Trade Agreement and followed a two-month notice and comment. The Rule is effective August 12, 1992. The thrust of the Rule is the inclusion of various categories of professionals and the definition of the category in terms of degrees or terms of experience. Thankfully, lawyers are still included on the list.

## Merchant Mariners' Documents for Brownwater

H.R. 4394 was introduced in March of this year by Walter Jones to extend the requirements for mariners to carry merchant marine documents to include those crew members employed

on inland waterway tugs, tugboats and barges. The bill was approved by the Coast Guard Subcommittee of the House Merchant Marine and Fisheries Committee and was reported by the Merchant Marine and Fisheries Committee to the House on July 21, 1992.

Under existing law, senior officers, pilots and transfer personnel are required to be licensed in order to conduct oil and hazardous materials transfer operations on inland waters. This measure would extend the licensing requirements of the Coast Guard to all crew members involved in inland transportation.

## Coast Guard Documentation Fee Increase Proposed

On May 20, 1992, the US Coast Guard proposed increased user fees for its services related to the documentation of vessels, including both commercial vessel fees and recreational vessel documentation fees. Comments were due by July 20, 1992.

The proposal is intended to set fees at a sufficient level to reflect the actual cost of the services provided. Certain of these fees with respect to commercial vessels represent new categories of charges, and others are increases of existing fee levels for certification, filing

and recording activities. The fees proposed do not seem unduly large. To the extent they enable or encourage the Coast Guard to improve the level of service in the vessel documentation offices around the country, the proposal may be a step in the right direction.

## Update: Driftnet Fisheries

We reported in the Winter 1992 *Portus* on H.R. 2152, a bill to enhance the effectiveness of the United States program restricting driftnet fisheries. Lists of countries conducting, or at least not prohibiting, large-scale driftnet fishing would be published by the Department of Commerce under the bill. The House passed H.R. 2152 on February 25, 1992. On July 31, the Senate also passed the bill by voice vote.

*\*This feature is reprinted with permission of Francis X. Nolan, III and John E. Bradley from recent issues of their newsletter titled "Selected Legislative and Regulatory Developments." Mr. Nolan and Mr. Bradley are both partners in the law firm of Nourse & Bowles, New York, NY. Readers are cautioned that the status of pending bills and proposed regulations discussed in this column may change rapidly.*

# NOURSE & BOWLES

## Attorneys at Law

One Exchange Plaza  
At 55 Broadway  
New York, New York 10006  
Telephone: 212-952-6200  
ITT Telex: 429985  
Telecopier: 212-952-0345

New Jersey Office  
744 Broad Street  
Newark, NJ 07102  
Telephone: 201-642-2871



Connecticut Office  
115 Mason Street  
Greenwich, CT 06830  
Telephone: 203-869-7887  
Telecopier: 203-869-4535

**Concentrating in Maritime, International  
Trade and Commercial Law**



# Le Réseau CP Rail lance un service régulier de wagons porte-conteneurs à deux niveaux entre le port de Montréal et Toronto

**Toronto, Ontario** - Le Réseau CP Rail a accru sa capacité de manutention des marchandises conteneurisées entre Montréal et Toronto, sans pour autant accroître le nombre ou la longueur de ses trains et sans construire de nouvelles voies ferrées.

Le nouveau service régulier de wagons porte-conteneurs à deux niveaux de CP Rail entre le port de Montréal et l'agglomération torontoise a débuté en juin, utilisant 50 wagons surbaissés fournis par la Trailer Train Co., de Chicago, en vertu d'un contrat de location. La moitié des wagons sont à triple plate-forme et le reste, à simple plate-forme.

«Le nouveau service de conteneurs sur deux niveaux répond aux besoins des expéditeurs pour des services de transport efficaces et sans avaries», dit W.D. McEwen, directeur général, Service international au Réseau CP Rail.

«CP Rail est un élément clé du système intermodal du port de Montréal, et sa toute récente initiative est un bel exemple des efforts persistants que fournit ce système pour améliorer son service», dit Dominic J. Taddeo, président-directeur général du port de Montréal.

Les conteneurs déchargés des navires au port de Montréal et destinés à la région de Toronto sont acheminés sur deux niveaux, dans le train 929 du Réseau CP Rail, tandis que les conteneurs en service sur l'Atlantique acheminés vers l'est sont transportés depuis la région métropolitaine de Toronto directement jusqu'au port de Montréal, dans le train 928. Les deux trains offrent un service en une nuit, du lundi au vendredi.

Les Services intermodaux du Réseau CP Rail prennent les dispositions pour la cueillette et la livraison par camion des conteneurs d'import-export, dans tout le sud de l'Ontario, donnant aux expéditeurs et aux réceptionnaires accès à des marchés dans le monde entier.

«Le gerbage des conteneurs sur deux niveaux dans nos trains

constitue une autre mesure en vue d'assurer un service de première qualité à nos clients», dit Bill Hand, directeur général, Exploitation intermodale pour le Réseau CP Rail, à Toronto.

«Les conteneurs sur deux niveaux améliorent l'efficacité des activités intermodales de tous les chemins de fer, mais notre approche donne aux expéditeurs une flexibilité hors de l'ordinaire dans la manutention des chargements de poids très divers qui transitent par les ports canadiens et les terminaux intérieurs de CP Rail», dit M. Hand.

Chaque plate-forme des wagons porte-conteneurs à deux niveaux peut recevoir des chargements allant jusqu'à 75 300 kg (166 000 lb). Un wagon à triple plate-

forme peut transporter n'importe quelle combinaison des conteneurs maritimes chargés qui sont actuellement utilisés, jusqu'à un poids maximal de 225 tonnes métriques. Les wagons à simple plate-forme mesurent 21,9 m (72 pi) de long et les wagons à triple plate-forme sont trois fois plus longs. Des attelages permanents et sans jeu relient les plate-formes des wagons longs, qui comportent six jeux de roues.



## Jumelage de deux ports canadiens: une première au Canada

**Vancouver, C.-B.** - Le port de Sept-Îles, Québec, et le port de Vancouver, ont été officiellement jumelés récemment, dans le cadre d'une cérémonie à laquelle assistaient plusieurs hauts fonctionnaires du gouvernement ainsi que les principaux dirigeants des industries et des ports concernés par l'événement.

«Chacun de ces ports possède une expertise unique dont il peut faire profiter à l'autre et vice versa...», de dire le président du conseil d'administration de la Société du port de

Vancouver, M. Patrick Reid. Il a ajouté qu'une vision élargie du mandat des deux plus grands ports canadiens, qui inclut le partage des compétences dans certains domaines, ne peut qu'avantager la gestion de l'ensemble des ressources portuaires.

Sous la bannière: «Deux ports, une mission», les ports de Vancouver et de Sept-Îles estiment que leur étroite relation leur permettra de satisfaire davantage à leur objectif commun qui consiste à promouvoir le commerce entre le Canada et l'étranger. Cet accord vise à favoriser l'implantation de programmes communs en matière d'environnement, de communications, de commercialisation, de technologie maritime, de planification, d'exploitation et d'administration portuaire. La technologie et la protection civile constituent d'autres secteurs qui feront peut-être

sous peu l'objet d'une collaboration entre les deux ports.

Dans l'allocation qu'il a prononcée dans le cadre de cette manifestation, le président-directeur général de la Société canadienne des ports, M. Jean Michel Tessier, a souligné que le jumelage de ces deux ports du réseau Ports Canada symbolise leur désir mutuel d'appuyer le commerce maritime et le réseau de transport canadiens afin que le pays maintienne sa compétitivité au sein d'une économie mondiale.

Selon les statistiques de 1991, le port de Vancouver est le premier en importance au Canada en ce qui a trait au total annuel des marchandises manutentionnées, avec 70,7 millions de tonnes, et le port de Sept-Îles occupe le deuxième rang avec 21,9 millions de tonnes.



# Winter Navigation on the St. Lawrence: A Remarkable Achievement of Canada's Transport System

Many experienced liner operators remain acutely aware of their dependency on effective ice - breaker service to avoid costly delays in sailing schedules.

by Leo A. Ryan \*

**I**n looking back at the critical place of transportation in Canada's history, surely one of the most remarkable achievements has been the advent of winter navigation on the St. Lawrence River.

For three decades, thanks in large part to the vital role played by the Canadian Coast Guard and its fleet of ice-breakers, formidable natural elements have been tamed to allow ocean vessels to penetrate, year-round, deep into the heart of North America, right to Québec City and still further inland to Montréal, Canada's biggest general cargo gateway.

Rarely have harsh winter conditions led to a closing of shipping channels - and then only for a few days. An exception was the horrendous winter of 1975-76, when the channel between Québec City and Montréal was closed for 31 days because of huge ice accumulation.

The impact of winter navigation on the development of foreign trade between Canada and other parts of the world, notably Europe, has been considerable. It has been no less significant for the Quebec economy and for the ports lying on both sides of the St. Lawrence River.

Among the great transportation corridors of the world, the St. Lawrence River is unique. Indeed, other mighty rivers, like the Mississippi, the Amazon and the Yangtze, may be longer, but no other permits ocean freighters to sail so far into a continent on a 12-month basis.

Located 1,000 miles from the Atlantic Ocean, Montréal lies at the entrance to the St. Lawrence Seaway, which is itself closed during the winter months. One quarter of Montréal's container traffic is generated during the winter months. Domnic Taddeo, president and chief executive officer, Port of Montréal, says that "constantly improving technology has provided an excellent track

record in winter navigation." And he stresses that the latter's very existence has helped to propel Montréal into the forefront of leading container ports on the east coast of North America.

## Early Days of Winter Navigation

The Port of Québec was the first of the St. Lawrence River ports to open winter navigation to international shipping.

It was a heavily-reinforced Danish freighter, the 5,000-ton *Helga Dan*, owned by the Laritzen Line of Copenhagen, which, on February 13, 1959, inaugurated Trans-Atlantic winter service between Québec City and Europe.

And a year later, in January 1960, the *Eskimo*, a ship with a reinforced hull operated by Canada Steamship Lines, was the first to sail up to Trois-Rivières. With the help of ice-breakers, another vessel with a strengthened





Canadian Coast Guard

hull made its way to Montréal in March 1962. Then, in January 1964, officially began the era of winter navigation at Montréal, with the Russians, because of their extensive experience in winter climate, among the first to schedule regular calls.

In the process, east coast ports like Halifax and Saint John, which had long served as "winter" harbors for carriers plying the St. Lawrence trades, lost part of their business. Very quickly, the whole question of winter navigation and free ice-breaking services to commercial shipping on the St. Lawrence River became "hot politics" on the east coast.

## Battling the Ice

Mariners have, of course, battled the seas and winds for centuries. However, in entering the Gulf of St. Lawrence, they face an added obstacle - ice.

Ranging from a few inches to several feet thick, ice creates a natural barrier to the passage of ships. On average, more than 1,700 vessels a year receive assistance from the Canadian Coast Guard in transiting the winter ice, either through routing information or through direct ice-breaker support, alone or in convoy. Flood prevention constitutes another important function of the Coast Guard fleet during the winter.

All told, in the vast area between the Newfoundland coast, the Gulf of St. Lawrence and Montréal, the Coast Guard operations today include 17 ice-breakers and ice-breaking tenders of varying size, search and rescue vessels, and helicopters. The headquarters for

the Laurentian region is in Québec City.

In recent years, the Coast Guard has developed innovative ice-breaking technology to tackle the problem of ice in shallow waters, where conventional ice-breakers are unable to work efficiently; this is through the use of air-cushion vehicles. The self-propelled Voyageur hovercraft operating on the St. Lawrence River has been especially successful in breaking ice in such notoriously shallow bodies of water as Lac St. Pierre.

Using Voyageur, ice is broken by a wave which develops astern when the craft is moving between 12 and 25 knots. Ice breaks over a track about 100 feet wide. This technique has broken ice up to four feet thick. Another advantage is that only relatively small crews and support staff are required, making it very cost-effective.

## New Global Trends Pose Challenge

Last winter on the St. Lawrence River and on the Gulf of St. Lawrence was described by marine casualty surveyors and Coast Guard officials as one of the worst in 30 years for ice conditions.

In February, the Gulf of St. Lawrence was almost entirely covered with a blanket of ice. Total clearing did not actually occur until May 22, a Coast Guard report revealed. As a result, the number of damaged vessels soared to about 40 - more than twice the average winter casualty level. Most were ill-adapted, flags of convenience vessels with inexperienced crews.

"What is happening on the St. Lawrence

reflects the global shipping trends," observes Tim Hall, regional coordinator in Dartmouth of the Coast Guard. Ten years ago, he noted, only 30 percent of the ships passing through the ice zones of the Gulf of St. Lawrence were flying flags of convenience, compared with nearly 60 percent in 1991.

With increasing frequency, vessels arrive at the pilot station of Les Escoumins in the heart of winter with crew members dressed in shorts and sandals. Winter clothing has to be hastily brought on board to save crew and captain from freezing.

Amazingly enough, there are apparently still many shipowners who do not realize the St. Lawrence is not the Caribbean.

Graham Deere, chief surveyor in North America for the London-based Salvage Association, the world's largest marine casualty investigation firm, says too many vessels entering the St. Lawrence do not have suitable engine-cooling systems or sufficient horsepower for navigation through ice.

## Shipping Federation Vigilant

There are no mandatory regulations requiring vessels trading on the St. Lawrence in the winter to be ice-reinforced. Major container carriers, including Cast (1983) Ltd. and Canada Maritime, have always used ice-strengthened ships. However, the experienced liner operators remain acutely aware of their dependency on effective ice-breaker service on the St. Lawrence in the winter to avoid costly delays in sailing schedules. And the Shipping Federation of Canada recently began an investigation of all Coast Guard services after several shipping lines complained about insufficient ice-breaker support last winter.

There is some concern in the foreign and Canadian shipping community that government efforts to reduce the Coast Guard budget in recent years could soon undermine the overall ice-breaking services. The evidence, so far, of the 1991 fleet restructuring plan points to no significant weakening of the Coast Guard fleet on the St. Lawrence. But sources close to the situation remark the level of service is clearly not expanding, with changes affecting how crews and heavy ice-breakers in particular are deployed.

*\* Leo Ryan is Canadian Bureau Chief, based in Montréal, of The Journal of Commerce of New York. He specializes in transportation and trade developments.*





# Les ports canadiens: une approche commerciale

Évolution du processus décisionnel dans les villes portuaires canadiennes.

par M.C. Ircha \*

Dans le système fédéral canadien, les responsabilités et pouvoirs constitutionnels sont répartis entre les gouvernements fédéral et provinciaux. La *Loi constitutionnelle* de 1982 donne au gouvernement fédéral la responsabilité des ports et havres. Néanmoins, l'administration actuelle des ports canadiens n'est certes pas homogène. Au contraire, les 365 ports commerciaux du Canada constituent un mélange hétéroclite peu structuré, à plusieurs paliers, qui comprend des sociétés de la Couronne (Société canadienne des ports), des ports administrés par des commissions portuaires, des ports publics relevant de Transports Canada, et d'autres ports desservant des industries privées. Ils ont

toutefois un élément commun, c'est-à-dire qu'ils doivent rendre des comptes au ministre des Transports et au Cabinet fédéral, tout en relevant de différentes autorités fédérales.

Dans l'économie mondiale d'aujourd'hui, il faut un commerce international efficace. Le Canada n'est pas isolé du reste du monde; il fait partie d'un réseau continental de transport. En termes d'échanges internationaux, la frontière canado-américaine est pratiquement invisible, ce qui donne aux expéditeurs canadiens et américains la possibilité de choisir entre plusieurs ports qui se font concurrence, grâce à des réseaux intermodaux efficaces de transport.

Bien que les États-Unis, tout comme le Canada, aient un régime fédéral, les pouvoirs et les responsabilités relatives aux installations

portuaires y résident au palier municipal ou régional et non au palier national. Il en résulte une vive concurrence entre les ports américains, car chacun s'efforce de conserver et d'étendre sa part du marché, souvent avec l'aide de subventions et d'exonérations fiscales de la part de l'État où il se trouve. Cette concurrence s'exerce souvent aux dépens des autres ports environnants. Qu'on pense, par exemple, aux aléas qu'a connus dernièrement le port de Baltimore, dont le nouveau terminal à conteneurs Seagirt attire difficilement du trafic, tandis que le marketing dynamique du port avoisinant de l'Administration portuaire Virginia, à Hampton Roads, connaît un franc succès.

Dans un numéro antérieur de *Portus*, Eric Heikkila avançait qu'aux États-Unis, l'autonomie totale des ports a entraîné une



sous-affectation des ressources, laquelle a généré à son tour des tarifs trop bas pour les services portuaires (étant donné le contexte très compétitif) et un surplus d'installations (Portus, Printemps 1991).

Étant donné la géographie du Canada, chaque port local devrait être autonome pour ce qui est de son administration et de son exploitation. Les ports canadiens font actuellement face à un dilemme: la nécessité perçue d'un équilibre entre un contrôle central (qu'on suppose essentiel à un réseau portuaire national économiquement rentable) et la nécessité d'offrir des chances égales de développement économique à toutes les parties du pays. Jusqu'à un certain degré, le réseau portuaire national actuel illustre ce dilemme. En 1983, la *Loi sur la Société canadienne des ports* établissait en sociétés d'État les grands ports de commerce du pays tant au niveau national (la Société canadienne des ports, ayant son siège social à Ottawa) qu'au niveau local (les sociétés portuaires locales). Les commissions de port ainsi que les havres et ports relevant directement de Transports Canada restaient inchangés en vertu de la nouvelle loi.

Il y a maintenant presque une décennie d'écoulée depuis l'adoption de la *Loi* de 1983, et on peut se demander s'il faut renouveler encore le réseau portuaire national pour permettre au Canada d'affronter avec succès la concurrence suscitée par la mondialisation actuelle de l'économie.

## Évolution de la politique canadienne concernant les ports

Le réseau portuaire canadien que nous connaissons aujourd'hui est le produit d'une évolution historique. Déjà, avant la naissance de la Confédération en 1867, il existait une structure administrative concernant les ports. Par exemple, les *Trinity Houses* de Québec et de Montréal, établies respectivement en 1805 et 1839, contrôlaient la circulation des marchandises et la navigation sur le fleuve Saint-Laurent, et géraient en outre leurs ports respectifs. Les provinces coloniales ont ensuite créé statutairement des commissions portuaires.

En vertu de l'article 108 de l'*Acte de l'Amérique du Nord britannique* de 1867 (devenu à présent la *Loi constitutionnelle* de 1982), la navigation et la circulation des marchandises tombaient sous la juridiction exclusive du gouvernement fédéral. L'année 1868 vit la création du ministère de la Marine et des Pêcheries, qui prit sous son aile la plupart des havres incombant antérieurement aux

anciennes provinces coloniales. Le ministère réglementait les havres et ports publics mais, étant donné un personnel peu nombreux et les grandes distances qui existaient entre les ports et le bureau central d'Ottawa, on ne saurait s'étonner de ce que divers corps publics et commissions portuaires aient été établis.

Au début des années 1920, certaines commissions portuaires étaient administrées directement par un organisme fédéral, tandis que d'autres, plus autonomes, s'orientaient vers une administration municipale. La structure administrative fédérale était strictement limitée. Quant aux commissions portuaires elles-mêmes, leur efficacité administrative était entravée par un système de favoritisme politique qui se traduisait entre autres par un renouvellement complet du personnel après des élections nationales.

Une étude pancanadienne effectuée en 1932 par Sir Alexander Gibb permit à celui-ci de conclure que la rivalité entre les ports, s'ajoutant aux changements politiques, provoquait des dépenses énormes et souvent improductives. Et même, selon Gibb, l'absence de lignes directrices fédérales permettait à certaines administrations portuaires «d'acheter le trafic» d'autres ports avoisinants davantage tournés vers le commerce, tout simplement en réduisant ou abolissant leurs taxes portuaires ou en omettant de les percevoir.

L'étude menée par Gibb a favorisé la fondation d'un système portuaire radicalement modifié qui centralisait l'administration des principaux ports du pays. L'auteur comparait les avantages et les inconvénients du maintien de commissions portuaires semi-autonomes et les autres choix qui s'offraient, par exemple

une direction ministérielle centralisée ou un réseau de sociétés d'État. Selon la philosophie fondamentale de Gibb, les ports nationaux n'étaient pas uniquement au service des intérêts locaux mais devaient bénéficier à tout le pays et par conséquent, devaient être régis selon des principes nationaux et suivant une véritable politique de coordination. On retrouve aujourd'hui encore cette philosophie dans le fait que les directeurs de ports cherchent à répondre aux divers besoins de leurs expéditeurs de l'arrière-pays.

Gibb recommandait la création d'un conseil central des ports comprenant trois membres choisis pour leur compétence dans le domaine des affaires et dans le domaine portuaire technique, et nullement identifiés à des intérêts politiques ou territoriaux. Le conseil devait être chargé d'administrer les «cinq ports maritimes nationaux reconnus»: Montréal, Québec, Vancouver, Halifax et Saint John, ainsi que tous les autres ports d'importance plus que locale.

En conséquence de ces recommandations, la *Loi sur le ministère des Transports*, adoptée en 1936, créait le Conseil des ports nationaux (CPN). Le Conseil était investi de la responsabilité de sept commissions portuaires, comprenant les cinq mentionnées dans le rapport Gibb, plus ceux de Trois-Rivières et de Chicoutimi. Au fur et à mesure des années, le CPN assumait ensuite la responsabilité des éleveurs à grain de Prescott et Port Colborne ainsi que des ports de Churchill, St. John's, Belledune, Prince Rupert, Sept-Îles et Baie des Ha! Ha! Quant aux commissions portuaires municipales, elles demeuraient indépendantes du CPN. Avec le temps,



Ports Canada



certaines de ces dernières ont été dissoutes, tandis qu'on en créait de nouvelles.

Comme il convenait à une organisation qui vit le jour pendant les années de la Dépression, le CPN adopta une approche nettement centralisatrice. C'est ainsi que peu à peu, le système d'administration des ports devint réputé pour ses contrôles financiers rigides, pour l'absence de participation municipale et provinciale et pour son manque de communication avec les commissions portuaires.

Dans les Maritimes, cette absence de recours aux municipalités et aux provinces a mené à la création de commissions municipales de développement portuaire à Saint John et à Halifax. Financées par des taxes locales et provinciales, ces commissions avaient pour tâche de promouvoir le transit des marchandises dans les ports locaux pour créer des emplois localement. L'activité des commissions ainsi que l'intérêt accru manifesté par les provinces à l'égard des affaires portuaires ont érodé l'exclusivité fédérale en matière portuaire. Par exemple, la participation financière directe du Nouveau-Brunswick et de la Nouvelle-Écosse à la mise sur pied des terminaux à conteneurs Rodney et Halterm à Saint John et Halifax respectivement vers la fin des années 1960 montrait bien que les provinces s'inquiétaient de plus en plus de l'élaboration des politiques portuaires par le siège social du CPN à Ottawa.

Entre 1827 et 1840, les autorités coloniales ont décerné à une quinzaine de municipalités des chartes instituant une commission portuaire. Mais comme elles étaient administrées à l'échelon fédéral et non municipal, plusieurs de ces commissions étaient connues sous le nom de commissions portuaires fédérales. Celles-ci ont été incorporées au réseau du CPN en 1936. Quant aux commissions portuaires véritablement municipales, elles continuaient de relever des lois respectives qui les avaient constituées, lois qui différaient selon les circonstances au moment de leur adoption. En 1964, la *Loi sur les Commissions de port* est venue rationaliser la formation et les activités des diverses commissions portuaires.

Les ports relevant d'une commission sont tenus de s'autofinancer et de tenir compte des besoins locaux. Ils jouissent dans leur fonctionnement d'un degré considérable d'autonomie. En général, les commissaires locaux sont des gens d'affaires qui connaissent bien le port et ses aspects commerciaux. La plupart des commissaires sont nommés par les autorités fédérales, et les autres par un ou

plusieurs conseil municipaux des localités environnantes. Les ports en question ne sont pas assujettis à la *Loi sur l'administration des finances publiques* et ont le droit de se constituer des fonds de réserve aux fins de planification et d'expansion. Toutes les commissions portuaires, sauf Toronto et Hamilton qui échappent à la *Loi* de 1964, relèvent du ministre des Transports. Toronto et Hamilton relèvent du Cabinet fédéral. À l'heure actuelle, on compte neuf commissions portuaires: Toronto, Hamilton, Windsor, Thunder Bay, Fraser River, North Fraser, Port Alberni et Nanaimo.

---

*«Selon la philosophie fondamentale de Gibb, les ports nationaux n'étaient pas uniquement au service des intérêts locaux mais devaient bénéficier à tout le pays.»*

---

Quant aux havres et ports publics relevant directement du ministère des Transports (Direction générale des havres et des ports publics et Garde côtière canadienne), ils comprennent la plupart des petits ports commerciaux et autres qui sont répartis dans tout le Canada. Ils font partie d'un réseau national intégré grâce à la *Loi sur les ports et installations de ports publics* (1983). Leur administration est répartie sur cinq régions. Par mesure de décentralisation, le ministre des Transports peut établir des comités consultatifs locaux et il en nomme les membres.

L'ordre de grandeur des havres publics varie considérablement de même que leur importance pour la collectivité environnante. Dans les régions éloignées, certains ports sont essentiels au transport des marchandises, tandis qu'à d'autres endroits, les industries locales en dépendent. Leur rendement financier varie également. On peut lire dans leur Rapport annuel de 1990-1991 que la plupart des ports publics ne génèrent pas assez de revenus pour couvrir leurs frais d'immobilisation, d'exploitation et d'administration, et ils dépendent en grande partie des crédits accordés par le Parlement.

Dans les années 1970, le gouvernement fédéral a cherché à élaborer une politique

portuaire nationale rationnelle qui intégrerait les différentes administrations portuaires. Le Rapport Manning, paru en 1971, qui étudiait l'administration des ports au Canada, a été le premier de plusieurs analyses successives, qui toutes ont insisté sur la nécessité de modifier l'administration portuaire. Le Rapport Manning reconnaissait que le contexte qui avait vu la création du réseau très centralisé du CPN dans les années 1930 n'était plus le même. La concurrence des ports américains était devenue une menace et comme les réseaux ferroviaires continentaux prenaient une importance croissante, on recommandait de créer un seul organisme gouvernemental responsable de l'activité de tous les ports et havres fédéraux.

Devant la nécessité d'une réforme, le Cabinet fédéral modifiait le CPN en 1971 en créant des administrations portuaires locales. Quoique n'ayant qu'une fonction consultative, ces instances, dont les membres étaient nommés, permettaient de prendre efficacement le pouls du milieu à l'égard des réformes. De plus, le CPN visait à décentraliser ses activités vers le niveau régional, à simplifier ses systèmes financiers et administratifs, à établir des comités exécutifs aux ports de Vancouver et Montréal, et à créer un nouvel organisme des ports. En 1974, le CPN avait assemblé, pour diriger ce système modifié, un personnel compétent dans un bureau central.

En février 1974, le gouvernement fédéral annonçait son intention de restructurer les ports du Canada. De nouveau, un comité interministériel examina la politique portuaire canadienne. Un nouveau modèle fut recommandé par le Comité Scott, soit une approche de services à la population, une direction centralisée de tous les ports du Canada confiée à Transports Canada. Ces recommandations furent incorporées dans le projet de loi C-6, intitulé *Loi concernant les ports du Canada*, présenté au Parlement en 1977.

Le projet de loi prévoyait la formation de comités consultatifs locaux et de conseils consultatifs régionaux dont les membres seraient nommés par le ministre. Tous les ports du Canada seraient administrés sous l'égide d'un Commissaire canadien des ports, haut-fonctionnaire de carrière, relevant du ministre par l'entremise de l'Administration canadienne du transport maritime, une division de Transports Canada. Des commissions portuaires locales quasi-autonomes administreraient une vingtaine de ports d'importance nationale. Elles seraient chargées de fixer les droits portuaires et d'établir leurs propres



règlements administratifs. En outre, les commissions portuaires locales devaient s'autofinancer. Pour sa part, le Commissaire des ports du Canada servirait de «chien de garde» veillant à ce que les ports ne se nuisent pas les uns aux autres.

S'opposant à ce projet de loi, Edgar Dosman de l'Université York, avançait que le fait de rejeter complètement le modèle de société d'État préconisé par les présidents des administrations portuaires locales pour proposer plutôt une structure à l'intérieur du ministère, équivalait à une prise de pouvoir par la Fonction publique. Si le projet de loi était adopté, il servirait à renforcer la bureaucratie centrale des ports et donnerait au ministre des pouvoirs discrétionnaires considérables. La situation dénoncée par Dosman était d'autant plus inquiétante que, faisait-il remarquer, même si seulement le principe en avait été proposé au Parlement, les bureaucrates d'Ottawa l'avaient déjà mise en œuvre en grande partie. En effet, la plupart des postes de la Commission canadienne des ports proposée étaient comblés dès 1978. On était

devant une situation incroyable, à savoir que le Conseil du Trésor et la Commission de la Fonction publique prêtaient leur concours aux fonctionnaires de Transports Canada pour éliminer le personnel du CPN, empirant ainsi encore la pagaille qui régnait autour de l'administration des ports au Canada.

Comme le faisait remarquer Dosman, le problème crucial c'était la «politisation» proposée des ports canadiens par leur intégration dans la Fonction publique. «Une société de la Couronne peut dire "non", mais des fonctionnaires ne le peuvent pas.» Le modèle société d'État fournit un écran entre les politiques partisans d'un ministre et les besoins commerciaux du réseau canadien de transport: «Le seul moyen d'empêcher que la politique portuaire soit complètement politisée et au service des impératifs politiques du jour, c'est d'avoir un organisme central jouissant d'une autonomie conférée par la loi, tout en étant sujet aux instructions ministérielles.»

Malgré tout le brassement bureaucratique et politique, le projet de loi C-6 n'a pas été adopté par le Parlement, suite à des retards, à

un manque d'intérêt dans les affaires maritimes, à des élections survenues entre-temps, ainsi qu'aux objections attribuables à la perte d'autonomie qui s'ensuivraient pour les commissions portuaires, etc. Ce roman-fleuve politique prit fin avec l'adoption en 1983 de la *Loi sur la Société canadienne des ports*.

Par cette loi, la Société canadienne des ports devenait une société de la Couronne ayant des filiales, à savoir les sociétés portuaires locales. Le législateur avait recherché l'équilibre entre une coordination nationale et la responsabilisation locale. Pour ce qui est des ports d'importance nationale ou régionale qui avaient atteint l'autosuffisance financière, la loi leur accordait une grande autonomie en les constituant en sociétés portuaires locales possédant leur propre conseil d'administration nommé par le ministre. À ce jour, le ministre a accordé ce statut à sept ports: St. John's, Halifax, Saint John, Québec, Montréal, Vancouver et Prince Rupert. La SCP assume la responsabilité des huit autres ports de commerce.

Bien qu'elle contienne une définition de la politique portuaire nationale, à l'article 3, la *Loi sur la Société canadienne des ports* ne mentionne pas le rôle des autres formes d'administration portuaire au Canada: les commissions de port, les ports publics de Transports Canada, et les installations industrielles privées. Malgré les efforts législatifs visant à solutionner les problèmes de l'ancien système du CPN, il n'existe encore aucune coordination nationale des ports du Canada.

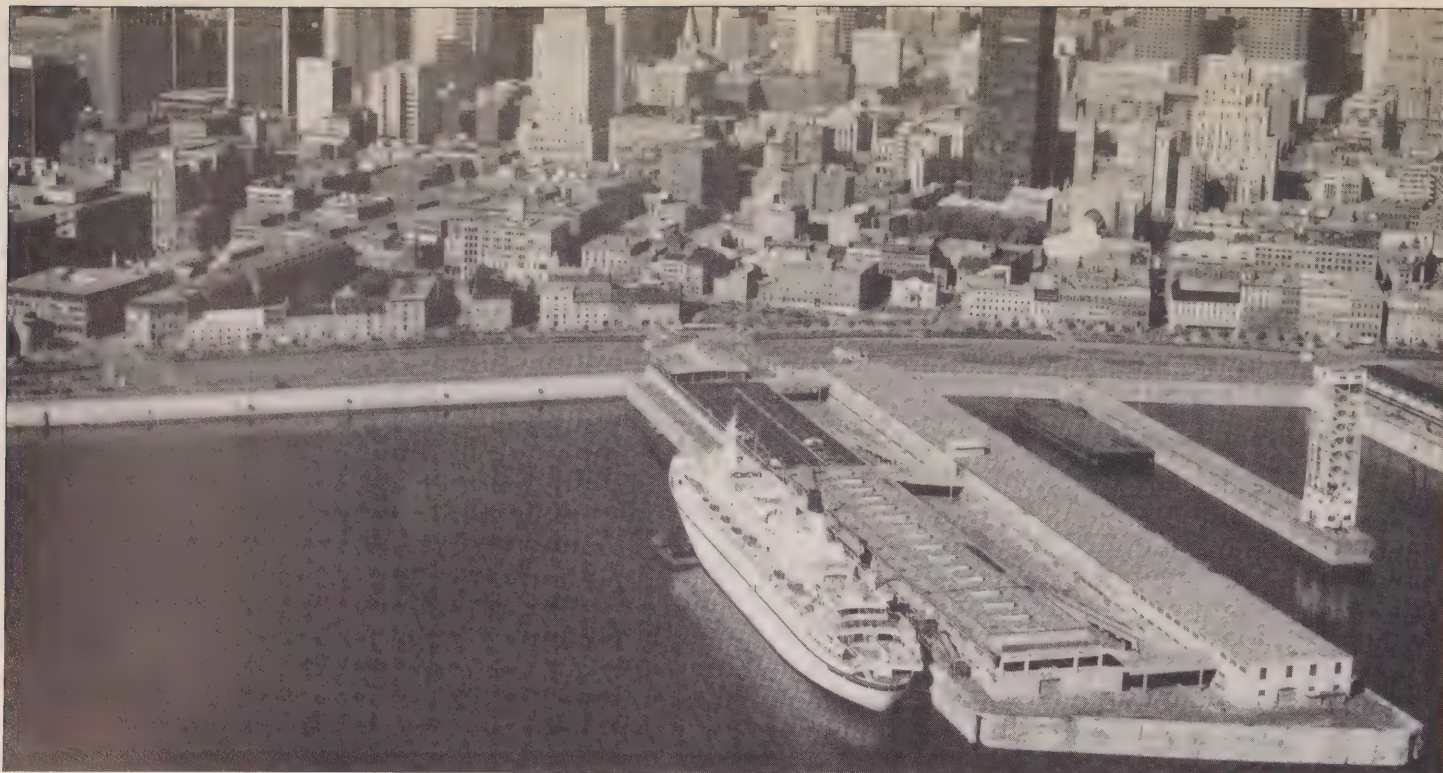
## Évolution du contexte portuaire

La déréglementation de l'industrie du transport aux États-Unis ainsi qu'une concurrence avivée ont stimulé la création de réseaux intermodaux innovateurs. On peut retracer le début d'expansions de l'intermodalité aux années 1980, soit l'adoption en 1980 de la *Staggers Rail Act* et en 1984, de la *Shipping Act* américaines. La *Staggers Act* permettait aux compagnies ferroviaires américaines de se restructurer en profondeur dans un cadre compétitif. Pour sa part, la *Shipping Act* permettait elle aussi de négocier, des tarifs favorables et d'établir clairement la légalité des services intermodaux ayant des liens avec les transporteurs maritimes. Les compagnies maritimes ont profité de la déréglementation pour négocier avec les compagnies ferroviaires, des contrats à faibles tarifs pour le transport des conteneurs (gerbés ou non) vers



Ports Canada





les grandes destinations à l'intérieur du continent. La soudaine augmentation du recours aux wagons à deux niveaux de chargement, aux États-Unis (et maintenant de plus en plus au Canada) pendant les cinq dernières années de la décennie 1980 a occasionné une modification importante des volumes en transit dans plusieurs ports américains, et au Canada également. À présent, les ports ne dépendent plus de la clientèle captive de leur zone spécifique de l'arrière-pays, car les réseaux intermodaux efficaces qui existent de nos jours ont ouvert aux expéditeurs du continent une grande diversité de choix pour leurs itinéraires.

À la suite des États-Unis, le Canada opérait une réforme de sa réglementation par sa *Loi de 1987 sur les transports nationaux*. Cette réforme ainsi que d'autres modifications apportées en même temps dans le domaine des transports découlait d'un Livre blanc que le gouvernement fédéral avait publié en 1985 sous le titre de «Aller sans entraves». Par la suite, l'Accord canado-américain de libre-échange a lui aussi modifié la position concurrentielle des ports.

L'ouverture de la frontière a rendu les expéditeurs canadiens de plus en plus conscients de l'existence de ports américains d'exportation faisant concurrence aux ports canadiens. Quant aux chemins de fer canadiens, ils cherchent eux aussi à pénétrer le territoire des États-Unis. Dernièrement, grâce à son acquisition de la Delaware and Hudson Railway, le Canadien Pacifique a pu desservir

les ports américains dont ceux de Baltimore, Philadelphie et New Jersey. En conséquence, les volumes de conteneurs passant par Halifax ont diminué car les grands volumes de marchandises à destination canadienne peuvent maintenant être acheminés directement par rail vers le centre du Canada à partir des ports de la côte est américaine.

L'industrie du transport maritime s'est vue forcée à devenir plus efficace étant donné la concurrence croissante au cours des années 1980. C'est la décennie qui a connu l'avènement des grands porte-conteneurs offrant de meilleures économies d'échelle mais qui nécessitent un accroissement des volumes en transit et un intervalle plus court entre l'entrée des marchandises dans un port et leur sortie. C'est pourquoi les grandes compagnies de transport maritime recherchent de plus en plus des carrefours portuaires desservis par un réseau intermodal efficace. Le port d'Halifax a connu une importante réduction de son trafic-conteneurs parce que sa clientèle expéditrice a choisi d'emprunter plutôt les points de rencontre intermodaux de New York ou de Montréal.

### Dilemmes que doivent affronter aujourd'hui les ports du Canada

Comme partout ailleurs, les ports canadiens sont dans une situation peu enviable; ils doivent maintenir leurs immobilisations pour desservir une clientèle (terrestre et maritime) extrêmement mobile. Les pressions de la

concurrence tant au niveau national qu'international ont influé sur la viabilité des ports. La concurrence entre ports canadiens a mené à des accusations de pratiques déloyales et d'inégalité de contextes. Par exemple, Saint John subit la concurrence du port de Bayside (un port public relevant de Transports Canada). Or, Bayside a été créé en 1971 à titre d'initiative régionale de développement économique pour desservir une conserverie locale de poisson. Cependant, avec les années, les investissements fédéraux ont permis d'agrandir les quais (y compris 10 millions \$ en 1989) et d'ajouter un entrepôt réfrigéré (autre contribution fédérale de 2,5 millions \$). Il en est résulté pour Bayside une augmentation continue du trafic, dont une certaine partie aurait normalement transité par Saint John. La concurrence interportuaire au Canada a également des effets sur la viabilité économique des transporteurs terrestres. Lorsqu'on dessert plusieurs ports répartis au sein d'une région géographique, la densité du trafic ferroviaire se trouve réduite. Étant donné cette baisse de densité, les compagnies ferroviaires n'ont plus les mêmes moyens de conserver l'efficacité et la compétitivité de leurs réseaux de transport.

Certains pourront avancer qu'une telle concurrence mène à un excédent d'installations portuaires, mais Michael Porter dans son rapport intitulé *Canada at the Crossroads: The Reality of a New Competitive Environment*, montre que la concurrence peut stimuler l'innovation et mieux exploiter un



avantage national ou régional par rapport aux concurrents. Selon Porter, une clientèle exigeante (qui veut un degré élevé d'efficacité des services) dans un contexte de concurrence, génère inévitablement des innovations créatrices. Et la région ou le pays qui possède des grappes d'entreprises novatrices jouit d'un avantage sur ses concurrents. On trouve une preuve évidente de l'argument de Porter dans la montée de l'intermodalité aux États-Unis et ses effets sur les ports et expéditeurs canadiens. La thèse de Porter, c'est que la concurrence interportuaire est bénéfique et pousse les organisations à trouver des moyens d'améliorer leur efficacité et leur productivité, qui à leur tour, leur permettent de mieux concurrencer les autres ports.

Comment les ports canadiens peuvent-ils réagir aux pressions de la concurrence? Au sein du réseau de la SCP, les sociétés portuaires locales ont le pouvoir de déterminer leurs propres taxes portuaires. Et elles l'ont fait jusqu'à un certain degré, selon les besoins de leurs clientèles respectives. Naturellement, lorsqu'on détermine ces taxes au niveau du port, on le fait en vue de maintenir son autosuffisance financière. Mais on peut également prendre d'autres mesures. Par exemple, le port de Saint John a mis en location, aux fins de diverses activités non portuaires, des zones d'entreposage sous-utilisées. Ceci, s'ajoutant à une réduction organisationnelle antérieure qui a amélioré l'efficacité, ainsi qu'à un marketing dynamique efficace visant à se tailler des créneaux déterminés sur le marché, a permis au port de respecter ses engagements financiers.

Pour ce qui est du palier national, on peut se poser des questions sur la planification intégrée des entreprises portuaires déclenchée par le siège social de la SCP. L'approche de celle-ci semble émaner d'études importantes telles que: *Competitive Strategies for Canada's Transportation System: «Port Economic Impact Studies»*; et, plus récemment, *Vers un réseau de transport intermodal canadien: Changements recommandés*. De plus, la SCP publie un aperçu trimestriel du contexte commercial et parraine

annuellement des conférences pour les entreprises portuaires. Même avec l'aide de ces services et études, la *Loi sur la Société canadienne des ports* n'offre pas une perspective intégrée d'un réseau portuaire national. Les ports canadiens demeurent répartis entre plusieurs réseaux institutionnels. Quant aux ports de la SCP, ils doivent payer leur quote-part des frais généraux du bureau d'Ottawa, et en outre, ils sont tenus de verser des dividendes au gouvernement fédéral, ce qui réduit leur capacité de réinvestir leurs bénéfices dans leurs propres activités portuaires.

La fonction génératrice d'emplois des ports nord-américains s'est vue gravement inhibée par plusieurs facteurs: l'intermodalité, y compris l'aménagement d'entrepôts à conteneurs à l'intérieur des terres; la conteneurisation elle-même, qui diminue la nécessité d'entreposage et de stockage; et l'échange électronique de données, qui réduit les formalités de dédouanage pour les expéditeurs. Il nous faut aujourd'hui des administrations portuaires dynamiques et compétitives, ayant des conseils d'administration moins nombreux, davantage axés sur le modèle des entreprises, et qui cherchent à augmenter leur achalandage par un marketing dynamique et pro-actif. Ce type d'administration est contraire à l'idée d'un contrôle central et d'une autorité centrale sur les ports locaux. Le contexte moderne (éléments divers qui s'imbriquent et se complètent) exige de la souplesse dans l'administration des ports.

## Nécessité d'une politique portuaire concurrentielle

Le réseau portuaire canadien est unique par rapport à celui d'autres États fédéraux, car la responsabilité des affaires portuaires y repose uniquement sur des organismes nationaux. En Australie et aux États-Unis, deux autres grands pays fédéraux, cela n'est pas le cas. Malgré ce caractère unique, l'administration portuaire canadienne est fragmentée en plusieurs catégories: la SCP, les commissions portuaires, les ports publics de Transports Canada, et les installations privées. S'ils veulent rester concurrentiels dans le contexte nord-américain des transports, qui évolue rapidement, les ports du Canada doivent être structurés d'une manière rationnelle et comme des entreprises commerciales.

Il s'agit donc de savoir si un réseau portuaire national et centralisé peut exister dans un contexte canadien. Étant donné l'ampleur du pays, la faible volonté politique à l'égard des ports, la diversité entre les régions, et les pressions économiques mondiales incessantes, il est peu probable que le Canada puisse se tracer une politique portuaire nationale. Une telle politique obligerait à prendre des décisions épineuses, par exemple établir une priorité entre les investissements à faire dans des ports de régions différentes qui se font concurrence, problème très difficile à solutionner au Canada.



Ports Canada





Ports Canada

En réalité, nous avons davantage besoin d'une plus grande commercialisation que de la privatisation. Même à défaut de cette dernière, un grand pas serait accompli si on donnait aux directeurs de ports plus de pouvoirs et de responsabilités, leur permettant de fonctionner commercialement. Grâce à la création des sociétés portuaires locales, sept des grands ports canadiens se sont commercialisés. D'ailleurs, les commissions portuaires ont toujours eu pour mandat cette commercialisation. En privatisant davantage, augmentera-t-on les possibilités commerciales? Il serait peut-être plus approprié au contexte canadien de commercialiser davantage les ports non constitués en société et certains des plus grands ports publics qui dépendent de Transports Canada.

Il existe toutefois une gamme de solutions autres que la mise en oeuvre d'un régime de réseau portuaire national, notamment: centraliser et contrôler davantage les divers ports et leurs structures administratives; établir des contrôles régionaux; ou renforcer l'autonomie locale des ports par plus de commercialisation et de privatisation.

Dans les années 1970, lors du projet de loi C-6, on a beaucoup parlé au Canada de centraliser l'administration des ports commerciaux et publics sous une seule administration, et on est passé près de le faire. Cependant, le projet de loi n'a pas été adopté, ce qui montre que le gouvernement fédéral hésitait à augmenter le contrôle bureaucratique sur des activités qui devraient être strictement commerciales. De plus, le Canada avait connu dans le passé de grands problèmes financiers découlant d'une administration portuaire nationale. Au début de 1980, les ports du CPN devaient au gouvernement 475 millions \$ en principal et intérêts accumulés. En 1980, la dette a été mise en veilleuse pour permettre l'adoption de la *Loi sur la Société canadienne des ports*, en 1983. Étant donné tous ces antécédents, on peut douter que le gouvernement fédéral songe de nouveau à centraliser l'administration des ports au niveau national.

Une solution mitoyenne comprendrait la création de réseaux portuaires régionaux, qui répartiraient les actifs dans chaque région. Déjà, selon la *Loi sur la Société canadienne des*

*ports*, le ministre peut établir des conseils consultatifs régionaux. Pour jouer un rôle véritable de coordination, chacun de ces conseils devrait se voir également confier la tâche de surveiller et de réglementer toutes les initiatives régionales de développement portuaire. Ainsi, les pouvoirs de planification centrale seraient délégués aux organismes régionaux. Et pour que ceux-ci soient vraiment viables, le ministre devrait aussi déléguer aux organismes qui ont un intérêt direct dans les affaires portuaires, notamment les provinces et les municipalités locales, le pouvoir de nommer les membres des conseils régionaux. Pour ce qui est de maintenir une approche "d'affaires", aucun de ces membres ne devrait être un personnage politique élu; il faudrait choisir plutôt des représentants du monde des affaires ou des domaines techniques pour lesquels les ports de région ont des répercussions.

À l'autre bout de la gamme des solutions de rechange, on trouve l'approche de privatisation, qui est actuellement populaire. Plusieurs yeux se tournent vers les initiatives prises au Royaume-Uni: le succès remporté par la privatisation de l'*Associated British Ports* ainsi que l'abolition, en juillet 1989, du Régime national de la main-d'oeuvre portuaire, ont ouvert la porte à d'autres projets de privatisation dans ce domaine. D'ailleurs, à l'heure actuelle, plusieurs ports britanniques tirent profit des avantages que prévoit la *Ports Act* adoptée en 1991.

Des rencontres récentes entre un certain nombre de directeurs canadiens de ports, des fonctionnaires de Transports Canada et des universitaires du domaine du transport maritime sur la façon dont il faudrait structurer les ports du Canada ont révélé plusieurs solutions de rechange. La plupart des personnes qui ont commenté la version antérieure du présent article (présentée dernièrement au forum canadien sur la recherche en matière de transports, tenu à Banff) se sont montrées favorables à une commercialisation accrue et à une plus grande autonomie locale des ports plutôt que de centraliser davantage le contrôle sur les ports du Canada. D'autres intervenants hésitaient, estimant que le lien avec Ottawa fournissait le levier nécessaire pour repousser les pressions inacceptables de la part de gens du niveau local qui voudraient modifier les activités portuaires. La suite du présent article se fonde sur les idées et commentaires émis par les nombreuses personnes qui ont réagi à la version antérieure.

## Une politique portuaire concurrentielle de rechange

Les ports du Canada sont en butte à une concurrence de plus en plus vive de la part du réseau nord-américain de transport, et il se pourrait que, dans l'avenir, la structure actuelle fragmentée du réseau portuaire ne puisse pas en assurer le succès. Une solution consisterait à réunir tous les ports commerciaux du Canada



(SCP, commissions portuaires et ports publics) en un seul organisme. Dans la première version de mon exposé, je disais que la Société canadienne des ports pouvait être l'organisme approprié à cette fin, dans le climat actuel qui favorise la commercialisation et la privatisation. Étant une société d'État, la SCP est à la fois à l'écart de l'arène politique et orientée vers le commerce.

Cependant, j'ai reçu beaucoup de commentaires d'autres personnes du domaine portuaire canadien, et il me semble maintenant qu'une stratégie plus appropriée consisterait à convertir tous les ports commerciaux canadiens en commissions portuaires. En d'autres termes, toutes les sociétés portuaires locales de la SCP ainsi que les ports publics dépendant de Transports Canada et qui sont commercialement viables, deviendraient eux aussi des commissions portuaires. Le passage d'un port d'une juridiction administrative à une autre est possible en vertu de la loi actuelle. De cette manière, tous les ports canadiens qui sont viables commercialement pourraient fonctionner et concurrencer à égalité. Ils en tireraient de nombreux avantages: plus grande autonomie locale, plus de souplesse dans la planification et l'exploitation, frais administratifs généraux réduits, possibilité de réinvestir leurs bénéfices dans leur propre activité portuaire, augmenter le nombre de gens d'affaires au sein de leur conseil d'administration, fardeau fiscal réduit, et enfin, nouvelles possibilités de trouver d'autres investisseurs que le gouvernement d'Ottawa. Si l'on se place du point de vue du gouvernement fédéral, cette approche réduirait la nécessité d'une surveillance étroite des activités portuaires et éliminerait, dans une certaine mesure, la possibilité d'utiliser les ports pour financer des projets politiquement rentables mais non viables financièrement.

Dans ce contexte, les commissions portuaires demeureraient autofinancées. Par définition, les sociétés portuaires locales doivent également s'autofinancer et donc peuvent facilement être transformées en commissions portuaires. Les ports qui ne sont pas constitués en société et ceux de Transports Canada devront être évalués soigneusement avant qu'on en fasse des commissions portuaires. Cela ne poserait pas de problèmes pour ceux qui sont déjà de nature commerciale (notamment ceux qui peuvent attirer du trafic national et international au-delà de ce qui était prévu au moment de leur création, par exemple le port de Transports Canada à Bayside) et qui ont les moyens financiers voulus pour poursuivre leurs activités. Les autres ports, non commerciaux, qui servent de ports d'accès à des

collectivités éloignées ou à des industries locales, devraient continuer de dépendre de Transports Canada ou lui être confiés à titre d'installations carrément subventionnées par les fonds publics. Chacune de ces installations subventionnées devrait subir une évaluation aux fins de décider qu'on l'abandonne (pourvu que d'autres modes de transport desservent leurs expéditeurs) ou qu'on la transfère aux autorités provinciales ou locales auxquelles le gouvernement fédéral accorderait des subventions plafonnées.

## *«Grâce à la création des sociétés portuaires locales, sept des grands ports canadiens se sont commercialisés.»*

Pour ce qui est de la coordination des activités portuaires régionales, des commissions portuaires existantes et proposées ainsi que des installations restantes subventionnées par Transports Canada, on pourrait recourir aux conseils consultatifs régionaux, déjà prévus par la *Loi sur la Société canadienne des ports*. Une certaine évaluation devrait être faite des membres de ces conseils pour veiller à ce qu'ils servent les besoins des ports commerciaux de la région.

À l'échelle nationale, il se peut que le gouvernement fédéral veuille conserver un certain degré de contrôle sur les activités portuaires par un droit de surveillance et de réglementation concernant l'utilisation et la vente éventuelle des terres appartenant à la Couronne, un peu comme on le fait pour les initiatives actuelles de privatisation des aéroports. On pourrait établir un secrétariat fédéral des ports, qui pourrait être une société d'État distincte et qui conserverait une optique commerciale. Les pouvoirs du secrétariat devraient se limiter aux questions relatives à l'utilisation du territoire portuaire appartenant à la Couronne (par exemple superviser l'usage ou l'abandon éventuel de ces terrains) et en général, à conseiller le ministre des Transports sur les questions relatives aux ports.

L'étape suivante de l'évolution des ports commerciaux du Canada consisterait à privatiser certaines commissions portuaires déterminées, un peu comme on est en train de le faire à l'égard des aéroports locaux.

## **Conclusion**

Le réseau portuaire canadien a connu une réorganisation majeure lorsque la Société canadienne des ports a été créée en 1983. La *Loi de 1983* constituait un progrès puisqu'elle commercialisait les grands ports du pays, mais elle n'allait pas assez loin. Elle ne mettait pas en place un réseau portuaire national. Il y avait encore au Canada une politique portuaire fragmentée en trois grands systèmes administratifs: les ports de la Société canadienne des ports au sociétés d'État semi-autonomes; des commissions portuaires; et des ports publics relevant directement de Transports Canada.

Si nous voulons relever les défis actuels et futurs de la concurrence, il faut une plus grande rationalisation et une plus grande commercialisation des ports du Canada. Tous les ports commerciaux du Canada devraient relever de commissions relativement autonomes. Quant à ceux dont les activités ne sont pas de nature commerciale, ils devraient demeurer dans le secteur public à titre de ports publics du ministère fédéral des Transports. Lorsque les ports auront été convertis en commissions portuaires, on pourra alors prendre d'autres mesures vers leur privatisation.

Aux nombreuses questions qui se posent sur la structure actuelle du réseau portuaire canadien, l'approche commerciale proposée ici n'est qu'une de plusieurs solutions de rechange qu'on peut considérer. Il faut encore approfondir la question pour chercher d'autres approches susceptibles d'améliorer le réseau portuaire national en vue de soutenir le commerce extérieur du Canada.

## **Remerciements**

Je tiens à exprimer ici mes remerciements pour l'appui constant que j'ai reçu dans mes recherches sur les systèmes portuaires canadiens grâce à une subvention du Conseil de recherches en sciences naturelles et en génie du Canada. Je remercie aussi pour leur soutien les nombreuses personnes qui ont commenté la version originale du présent article.

*\* M.C. Ircha est professeur de génie civil au Groupe sur les transports, à l'Université du Nouveau-Brunswick, Fredericton, N.-B.*



## FACTS AND FIGURES

After completing 1991 on a positive note, marine activity began early this year on a less favorable path and traffic has continued to slide as we reach the half-way point in 1992. Traffic volumes at Ports Canada ports has reached 81.8 million tonnes, down 4.7 percent from the reported 85.9 million tonnes handled in the first half of 1991. Ironically, all four Atlantic Canada ports reported increased activity over last year, while every port in the St. Lawrence Region experienced reduced traffic levels. On the west coast, Prince Rupert is showing positive results to this point, while in Vancouver the port is trailing behind last year's traffic volumes.

On the east coast, the Port of Belledune continues to show a marked improvement over last year by handling 169,000 tonnes of cargo, a 12 percent jump. On the St. Lawrence River, the Port of Sept-Îles is down by close to one million tonnes or 11.6 percent, while the Port of Trois-Rivières is attempting a come-back after labor unrest this year, with an 11.2 percent decline in traffic. On the Saguenay River, cargo volumes have dropped in half at Port Saguenay (Chicoutimi) to 117,000 tonnes in 1992. Overall the major commodity groups across the system

including dry bulk, liquid bulk, grain, coal, container and breakbulk are trailing 1991 results.

Since the beginning of the year, the St. John's Port Corporation has picked-up steam. Coming off a first quarter drop in traffic, the port has rebounded and jumped 7.3 percent. Container trade has been leading the way by showing a six percent decline, compared with the 20 percent reported after the first quarter. Conventional general cargo continues to surge ahead, while a significant volume of salt received in May help propel the dry bulk figure to 42,000 tonnes from the 9,000 tonnes reported last year.

Traffic at the Halifax Port Corporation has also been improving since the beginning of the year. First half results show the port ahead of last year by 1.5 percent after lagging behind by 10 percent in the first quarter. The two major bulk commodities at the port, gypsum and petroleum products, are showing increased throughput while grain exports are down this year. The container picture at the port shows little sign of improvement with levels at 22 percent behind last year, identical to the 1991 year-end results. Non-containerized cargo is showing a 12 percent decline from last year, which has followed a roller-coaster pattern for the past few years.

The Saint John Port Corporation had a record year in 1991. This strong performance which spilled over into the early part of this year has now stabilized. The port is now reporting a total volume of 7.6 million tonnes which is slightly over the 1991 total. Petroleum products, which were moving well earlier this year, are now down slightly at six million tonnes. Potash exports continue their upward momentum with 820,000 tonnes handled, up by 3.2 percent. The port's breakbulk figures which comprise almost exclusively of forest products, are about the same as last year, while container tonnage

continues its downward spiral to 52,000 tonnes, down from 69,000 tonnes in 1991.

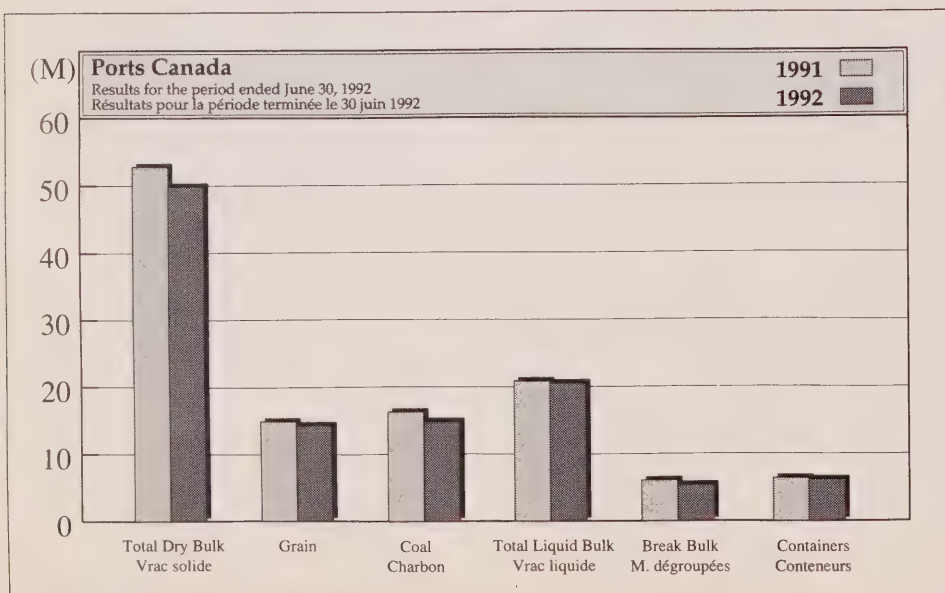
Earlier this year there were signs that the Port of Québec Corporation was heading into another record year. However, after six months of activity this has changed and the port now faces a much different scenario. Volumes are down by 1.6 million tonnes or 18 percent, from 9 to 7.4 million tonnes. This situation is attributed almost exclusively to a major reduction in grain handlings. Changes in other cargoes include petroleum products, which are ahead of last year, while increased shipments of lumber have helped boost general cargo from 171,000 tonnes to 295,000 tonnes.

Total traffic at the Montréal Port Corporation has reached 7.4 million tonnes this year, a decrease of 10.6 percent compared with the previous year. A number of factors have contributed to these results. The most evident is the 53 percent drop in non-containerized cargo, or the equivalent of 334,000 tonnes. Grain shipments have also contributed to this decline with a drop of 304,000 tonnes, as well as petroleum products, down 11.3 percent. A total of 2.8 million tonnes of containerized cargo have moved through the port in 1992. This compares with three million tonnes a year earlier, representing a 6.7 percent decrease in traffic, but nonetheless an improvement since the beginning of the year.

Activity at the Vancouver Port Corporation has dropped off in the second quarter. After posting a five percent increase over-all in the first three months, the port is now slipping, by two percent, with a total of 34.9 million tonnes handled. While coal exports are down by 10 percent to 11.5 million tonnes, grain exports have been buoyant, 20 percent over last year. Another positive development has been the enormous growth of container traffic. The record set in 1991 will no doubt be broken again this year. The port is approaching the two million tonne mark midway through 1992, which is up by 24 percent over last year. Reduced shipments of forest products have also been noted.

The Prince Rupert Port Corporation handled 7.1 million tonnes of cargo, up 1.9 percent over last year. Coal exports are down by 4.2 percent, to 3.3 million tonnes, a significant improvement over the previous quarter. Offsetting this situation is an upward trend in grain shipments of 13 percent to 2.9 million tonnes. The decline in petroleum products has been negated by a 16 percent increase in breakbulk movements, consisting mainly of forest products.

- G. Bernard Bisson





## FAITS ET CHIFFRES

L'année 1991 s'étant terminée sur une note positive, l'activité maritime s'annonçait plutôt mal au début de cette année, et le trafic portuaire a continué de régresser. Après six mois, le volume de marchandises traitées dans les ports de Ports Canada a atteint 81,8 millions de tonnes, ce qui représente une diminution de 4,7 p.100 par rapport aux 85,9 millions de tonnes signalées il y a un an. Fait intéressant, les quatre ports situés dans la région de l'Atlantique ont fait état d'une croissance au cours de l'année écoulée, tandis que dans chacun des ports situés dans la région du Saint-Laurent, le trafic a fléchi. Sur la côte ouest, le port de Prince Rupert a enregistré des résultats favorables jusqu'à maintenant, tandis que le port de Vancouver accuse une baisse par rapport aux volumes de l'année dernière.

Sur la côte est, le Port de Belledune a connu une nette amélioration comparé à l'année dernière, en traitant 169 000 tonnes de marchandises, ce qui représente une augmentation de 12 p.100. Sur le Saint-Laurent, le Port de Sept-Îles a manutentionné près d'un million de tonnes ou 11,6 p.100 de marchandises en moins, tandis que le Port de Trois-Rivières essaye de reprendre le dessus après un conflit de travail survenu plus tôt cette année et une chute de 11,2 p.100 de son trafic. Sur la rivière Saguenay, les volumes de marchandises ont diminué de moitié dans le Port Saguenay (Chicoutimi) pour tomber à 117 000 tonnes. À l'échelle du réseau, on constate une baisse des volumes comparativement à ceux de 1991 dans toutes les catégories de marchandises, y compris le vrac solide, le vrac liquide, les céréales, le charbon, les marchandises conteneurisées et les marchandises dégroupées.

Le port de St. John's semble avoir retrouvé sa vigueur. En effet, le trafic portuaire ayant baissé au cours du premier trimestre, il a repris de plus belle pour faire un bond de 7,3 p.100. C'est dans le secteur des marchandises conteneurisées que la situation s'est le plus améliorée, la diminution n'étant plus que de 6 p.100, comparé

aux 20 p.100 signalés au cours du premier trimestre. Le volume des marchandises générales continue de grimper, et la quantité de vrac solide traité est passée de 9 000 à 42 000 tonnes en l'espace d'un an, grâce à une quantité importante de sel manutentionnée en mai.

Dans le port d'Halifax, on constate une augmentation du trafic depuis le début de l'année. Les résultats au cours de la première moitié de celle-ci montrent un rendement supérieur de 1,5 p.100 aux chiffres de l'année dernière, après une chute de 10 p.100 durant le premier trimestre. Les volumes des deux principaux types de marchandises transitant par le port, soit le gypse et les produits pétroliers, sont à la hausse, tandis que les exportations de céréales accusent une baisse. Au plan des conteneurs, la situation est identique à celle constatée à la fin de 1991, c'est-à-dire que l'on signale une diminution de 12 p.100 des volumes. En ce qui concerne les marchandises non conteneurisées, où les volumes ont varié énormément ces dernières années, la situation n'est pas bien meilleure, la chute enregistrée étant de 12 p.100.

Pour la Société du port de Saint John, 1991 était une année record. Cet excellent rendement, qui s'est poursuivi jusqu'au début de cette année, s'est maintenant stabilisé. Le port signale un volume total de 7,6 millions de tonnes, ce qui dépasse légèrement le total pour 1991. Le volume des produits pétroliers qui, au début de l'année était important, a connu un léger fléchissement et se situe maintenant à six millions de tonnes. Les exportations de potasse continuent à augmenter et se chiffrent à 820 000 tonnes, une amélioration de 3,2 p.100. La quantité de marchandises dégroupées, composées presque exclusivement de produits forestiers, n'a pas beaucoup changé par rapport à l'année dernière, tandis que le volume des marchandises conteneurisées, qui continue sa courbe descendante, est de 52 000 tonnes, comparativement à 69 000 tonnes en 1991.

Au début de l'année, on avait l'impression que la Société du port de Québec battrait une fois de plus tous les records de l'année précédente. Or, après six mois, la situation a complètement changé. Les volumes ont chuté de 1,6 million de tonnes ou 18 p.100, tombant de 9 à 7,4 millions de tonnes. Cette situation est attribuable presque entièrement à une forte diminution des volumes de céréales. En ce qui concerne les autres marchandises, on enregistre une augmentation du volume des produits pétroliers, ainsi que des cargaisons de bois d'oeuvre, qui ont fait passer le tonnage des marchandises générales de 171 000 à 295 000 tonnes.

À la Société du port de Montréal, le trafic a atteint 7,4 millions de tonnes cette année, ce qui représente une diminution de 10,6 p.100 par rapport aux résultats de l'année dernière. Un certain nombre de facteurs ont contribué à cette situation. La plus évidente est une chute de 53 p.100 du volume des marchandises non conteneurisées, ce qui équivaut à une perte de 334 000 tonnes. Il y a aussi eu une baisse de 304 000 tonnes dans la quantité de céréales traitées et un ralentissement de 11,3 p.100 au chapitre des produits pétroliers. Par ailleurs, 2,8 millions de tonnes de marchandises conteneurisées ont transité par le port en 1992. À la même époque l'année dernière, la quantité manutentionnée s'élevait à trois millions de tonnes. Le trafic portuaire a donc diminué de 6,7 p.100, mais cela représente quand même un redressement de la situation par rapport au début de l'année.

La Société du port de Vancouver déplore un ralentissement du trafic portuaire durant le seconde trimestre. Après avoir fait état d'une augmentation totale de 5 p.100 durant les trois premiers mois, le port accuse maintenant une baisse de 2 p.100, n'ayant manutentionné que 34,9 millions de marchandises en tout. Alors que les exportations de charbon ont diminué de 10 p.100 pour tomber à 11,5 millions de tonnes, la situation est excellente au chapitre des exportations de céréales, qui ont augmenté de 20 p.100. Un autre aspect positif est l'énorme croissance enregistrée dans le secteur des conteneurs. Il ne fait aucun doute que, cette année encore, le port battra le record de l'année précédente. Le volume manutentionné approche déjà les deux millions de tonnes, volume supérieur de 24 p.100 à celui de l'année dernière. On a toutefois constaté une baisse dans le secteur des produits forestiers.

La Société du port de Prince Rupert a manutentionné 7,1 millions de tonnes de marchandises, soit 1,9 p.100 de plus que l'année dernière. Les exportations de charbon ont diminué de 4,2 p.100 et se situent à 3,3 millions de tonnes, ce qui constitue quand même une nette amélioration par rapport au trimestre précédent. Cette baisse est contrebalancée par une tendance à la hausse dans le secteur des expéditions de céréales, dont les volumes ont grimpé de 13 p.100 à 2,9 millions de tonnes. L'augmentation du volume des marchandises dégroupées, composées essentiellement de produits forestiers, compense pour la réduction enregistrée dans le volume des produits pétroliers.

- G. Bernard Bisson





Port Saguenay a fait revivre son passé dans le cadre d'une exposition historique.

par Réjean Dufour \*

**L**e 24 juillet dernier la ville de Chicoutimi inaugurerait, à l'occasion de son 150<sup>ième</sup> anniversaire, «Place Chicoutimi 92», sur le site du vieux port de Chicoutimi. Selon M. Lucien Gendron, président de Chicoutimi 92, «la prise en charge de la zone portuaire est sans aucun doute l'élément le plus visuel, sinon le plus significatif de la conservation de notre patrimoine».

Pour souligner cette fête et celle du 125<sup>ième</sup> du Canada, Port Saguenay présentait durant toute la saison estivale, une exposition historique traitant de l'activité portuaire à Chicoutimi et de son développement. Cette exposition, qui se tenait dans un ancien entrepôt au vieux port, a été inaugurée le 3 juillet dernier par le président-directeur général de la Société canadienne des ports, M. Jean Michel Tessier, en présence de notables de la ville, de clients et d'employés anciens et actuels du port.

C'est par le biais de photographies, d'objets anciens et d'échantillons des produits manutentionnés au port, que les concepteurs de cette exposition ont choisi de raconter l'histoire de l'activité portuaire à Chicoutimi. L'exposition comprenait trois principaux volets. Un premier volet mettait en lumière l'histoire du quai privé de Price et du quai fédéral, un volet technique décrivait la construction du terminal maritime de Grande-Anse à Ville de la Baie et enfin, un volet d'actualité faisait le point sur les activités de Port Saguenay.

### Volet historique

Le volet historique amenait le visiteur à saisir toute l'importance des activités portuaires dans le développement de la ville et de la région du Saguenay. Des photographies montraient la construction du vieux quai de Chicoutimi (1930...) là où vient d'être aménagée «Place Chicoutimi 92».

Le majestueux Fjord du Saguenay a favorisé le commerce des fourrures avec les marchés européens et par la suite celui du bois, de la pâte et du papier. Les navires s'ancrent dans le bassin de Chicoutimi de 1608 à 1842, au temps du commerce des fourrures.

Après avoir établi une scierie à la sortie de la rivière de Chicoutimi, un métis du nom de Peter McLeod et William Price construisent le premier quai à Chicoutimi, dans le bassin, qui est opérationnel dès 1843. De 1850 à 1880, chaque année, une vingtaine de navires à voile ou à vapeur viennent prendre des cargaisons de bois destinées à l'Angleterre. Ce sont de petits bâtiments, jaugeant un peu plus de 600 tonneaux et pouvant transporter une cargaison d'environ 18 000 madriers par navire. Les océaniques de tonnage important devront s'arrêter à St-Fulgence, à 12 kilomètres en aval sur la rivière, en raison de la faible profondeur d'eau. On chargera la pâte dans des chalands que l'on remorquera jusqu'aux navires ancrés



à St-Fulgence. C'est de cette manière que fut transbordée la pâte de la compagnie Price. Les quais de Price sont laissés à l'abandon après la fermeture de la scierie en 1901.

Le premier quai fédéral est construit en 1874 un peu en aval sur la rive sud de la rivière Saguenay, au pied de la rue du quai, juste en face de la cathédrale. À compter de 1870, la Compagnie des Remorqueurs du St-Laurent assure un service régulier de Québec à Chicoutimi. En l'absence de bonnes routes et de moyens de locomotion rapides, le transport par bateau est alors essentiel car il s'avère rapide, sûr et peu dispendieux. Il permet aux colons du Saguenay d'importer les produits manufacturés dont ils ont besoin et d'exporter leurs productions.

En 1894, le quai sera agrandi et un débarcadère construit suite à l'arrivée du chemin de fer et à l'augmentation du trafic combiné, maritime et ferroviaire. Une compagnie est formée en 1904 et administrera le port jusqu'en 1935, la Compagnie Générale du Port de Chicoutimi, une filiale de la Compagnie de Pulpe.

Dès 1927, le gouvernement fédéral affecte 500 000 \$ à des travaux de dragage devant Chicoutimi pour assurer une profondeur d'eau à quai, de 14 pieds à marée basse et 35 pieds à marée haute. Une grande superficie de terrain sera conquise sur le Saguenay pour la construction de ce qui s'appellera le port de Chicoutimi. Les travaux de construction vont se poursuivre jusqu'en 1937. Une fois ceux-ci complétés, le port comptera 18 hectares de superficie d'entreposage, 762 mètres de front de quai, environ 2 560 mètres de voies ferrées reliées au réseau du Canadien National, ainsi qu'un entrepôt de 2 440 mètres carrés.

L'activité commerciale au début est bourdonnante. L'on y reçoit le charbon, le soufre et la soude pour l'industrie papetière de la région. On transborde pour l'exportation du papier et du bois d'oeuvre.

En 1936, le Conseil des ports nationaux prend la relève. Dans les années 40, sur le plan commercial le port change d'orientation. Le charbon cède la place aux hydrocarbures, les papeteries produisent pour les marchés canadien et américain et les intrants sont acheminés par chemin de fer. En 1950, on peut dire que le port de Chicoutimi est un terminal à hydrocarbure.



Port Saguenay

Vers la fin des années 70, les normes environnementales se resserrent et de nombreuses pressions sont exercées pour que soient relocalisés vers un autre secteur les 43 réservoirs du centre-ville de Chicoutimi. Les réservoirs sont finalement démolis au milieu des années 80 et le quai est transféré à la municipalité pour être réaménagé en place publique où toute la population pourra jouir d'une vue imprenable sur le Saguenay.

*«Une grande superficie de terrain sera conquise sur le Saguenay pour la construction de ce qui s'appellera le port de Chicoutimi.»*

### **Volet technique / construction du terminal maritime de Grande-Anse**

Au début des années 80, le port de Chicoutimi décide de relocaliser ses activités en aval, à Grande-Anse à Ville de la Baie. La construction du terminal maritime de Grande-Anse a débuté le 1<sup>er</sup> mai 1984 et l'on y a accueilli le M/V Mathilda Desgagnés, premier navire à y accoster, le 25 novembre 1985.

Ce volet mettait en évidence les avantages du site de Grande-Anse pour la navigation, sa profondeur d'eau et sa protection contre les vents. On y présentait de quelle façon les huit caissons ont été construits, flottés et mis en place à Grande-Anse.

### **Port Saguenay, aujourd'hui**

Après tous les changements survenus au cours de la dernière décennie, le port a récemment adopté le nouveau nom de «Port Saguenay», mieux adapté à sa nouvelle réalité.

Le terminal maritime de Grande-Anse fut d'abord un terminal à produits forestiers. La récente diversification des trafics en fait aujourd'hui un terminal à marchandises générales.

Cette section montrait une vue aérienne des différents usagers du port, usine de pâte et papier, scieries, mine de granit, de calcite, tourbière et autres. Un îlot regroupant des échantillons des principaux produits manutentionnés au port représentait un des points d'intérêt de l'exposition.

L'avenir de ce nouveau terminal est d'être agrandi à court terme... et il faut rendre hommage aux planificateurs qui ont su tirer leçon de l'histoire en le plaçant en un lieu éloigné des centres urbains.

À la fin de l'été 92, des milliers de personnes s'étaient rendues à «Place Chicoutimi 92» et ont profité de l'occasion pour faire connaissance avec l'histoire de Port Saguenay.

#### **Référence bibliographique**

*Chicoutimi: la formation de la métropole régionale, par Russel Bouchard et Normand Perron, Société historique du Saguenay, 1987.*

*\* Réjean Dufour est agent de planification et développement à Port Saguenay.*



RÉDACTEUR EN CHEF  
Hassan J. Ansary

RÉDACTRICE ADJOINTE  
Lisa Robertson

RÉDACTRICE FRANÇAISE  
Anne Laliberté

CONCEPTION et PRODUCTION  
Brian Underwood

IMPRESSION  
Imprimeurs Beauregard  
373, ch. Coventry  
Ottawa (Ontario)  
K1K 2C5

SERVICES DE SOUTIEN  
Gail Bigelow  
Terry Larcher  
Sylvie Picard

La rédaction  
n'est responsable ni de l'exactitude  
des renseignements, ni des erreurs ou  
omissions des articles publiés dans  
*Portus*, ou des inconvénients que cela  
pourrait occasionner. Les idées exprimées  
dans *Portus* sont celles des auteurs et ne  
reflètent pas nécessairement l'opinion  
de Ports Canada, de sa direction ou de  
ses conseils d'administration.

ISSN 0832-8587  
Copyright 1992  
Imprimé au Canada

L'appellation Ports Canada désigne  
un réseau fédéral de ports situés à  
Belledune, Churchill, Halifax, Montréal,  
Port Colborne, Port Saguenay/Baie des Ha! Ha!,  
Prescott, Prince Rupert, Québec, Saint John,  
Sept-Îles, St. John's, Trois-Rivières  
et Vancouver.

## Coopération nord-américaine en vue pour les chemins de fer

**MONTREAL, QUÉBEC** – CN Amérique  
du Nord, Burlington Northern Railroad,  
Ferrocarriles Nacionales de Mexico et Protexa  
Burlington  
International ont  
signé un accord en  
vue de favoriser  
un réseau de  
transport sans  
rupture ni  
frontière nord-  
américaine,  
capable d'offrir à  
leurs clientèles un  
meilleur service  
de transport  
marchandises au  
Canada, aux  
États-Unis et au  
Mexique.

Ils ont déclaré que cette collaboration leur  
permettra d'accroître leurs débouchés mutuels  
dans un marché comptant plus de 360 millions  
d'habitants et quelque trois billions de dollars  
américains d'échanges économiques.

CN Amérique du Nord mène ses activités au  
Canada et aux États-Unis. Le CN, dont la  
direction générale est située à Montréal

(Québec), est le  
plus grand chemin  
de fer du Canada.  
Burlington  
Northern Railroad,  
le plus long réseau  
ferroviaire  
d'Amérique du  
Nord, assure ses  
services aux États-  
Unis et au Canada.  
Il a son siège social  
à Fort Worth  
(Texas). Seul  
chemin de fer du  
Mexique, le  
Ferrocarriles



Nacionales de Mexico a son siège à Mexico.  
Quant au Protexa Burlington International, il  
assure un service intégré de traversier  
ferroviaire, et il est établi à Mexico.

## McMILLAN BULL CASGRAIN

### BARRISTERS & SOLICITORS

#### Transportation Law Group

*For further information contact:*

Peter Cathcart  
McMillan Binch  
Toronto (416) 865-7073

Robert Alain  
Byers Casgrain  
Montréal (514) 878-8859

Lach Morrison  
Bull, Housser & Tupper  
Vancouver (604) 641-4883

#### Other offices

Ottawa

Mississauga

Hong Kong

Taipei



# Bientôt un chenal plus profond pour naviguer jusqu'à Montréal

Le Port de Montréal a annoncé récemment la signature d'un protocole d'entente avec la Garde côtière canadienne pour assurer le financement d'un projet de dragage d'entretien qui augmentera d'un pied ou de 0,3 mètres la profondeur d'eau navigable dans le chenal du fleuve Saint-Laurent.

«Ce pied (30 centimètres) supplémentaire peut représenter jusqu'à 1 000 tonnes de marchandises de plus par navire, ou de 100 à 120 boîtes de plus par porte-conteneurs,» a déclaré le président-directeur général du Port de Montréal, M. Dominic J. Taddeo. Il a ajouté que «dans un seul voyage, un gros porte-conteneurs pourrait ainsi aller chercher jusqu'à 150 000 dollars de revenus additionnels.»

Le projet de dragage d'entretien consistera à nettoyer les hauts-fonds pour porter de 10,7 mètres (35 pieds) à 11 mètres (36 pieds) la profondeur minimale reconnue du chenal entre Montréal et Québec.

Les plus gros porte-conteneurs desservant Montréal ne seront pas seuls à tirer profit d'une plus grande profondeur d'eau navigable. «Notre port sera plus que jamais attrayant pour les navires de vrac solide et les céréaliers chargeant 50 000 tonnes», a dit M. Taddeo.

Selon le président du conseil d'administration de la société portuaire, M. André Gingras, la réalisation du projet de dragage d'entretien viendra rendre encore plus compétitif tout le système portuaire de Montréal.

«Étant donné que le Port de Montréal est à l'extrémité amont du chenal de navigation,

c'est notre société qui va en grande partie financer les travaux», a expliqué M. Gingras. «Notre conseil d'administration a déjà approuvé un budget de 1,15 million de dollars pour couvrir 75 pour cent du coût de réalisation du projet.»

Les autres signataires du protocole d'entente sont la Société canadienne des ports pour le port de Trois-Rivières et la Société du parc industriel et portuaire de Bécancour. Le maître

de navigation (profondeur d'eau navigable mesurée à partir du zéro des cartes hydrographiques) est basée sur la moyenne historique des plus basses eaux. Aussi, le niveau d'eau dans le chenal est-il habituellement plus élevé. Par exemple, au cours des 25 dernières années, le niveau d'eau moyen au port s'est maintenu à 11,58 mètres (38 pieds), soit à 0,91 mètre (3 pieds) au-dessus de la profondeur minimale reconnue du

chenal, établie à 10,7 mètres (35 pieds) en 1952.

Lorsque le dragage d'entretien aura porté à 11 mètres (36 pieds) la profondeur minimale reconnue du chenal, les navires pourront compter en tout temps, en période de basses eaux comme en période de hautes eaux, sur une profondeur d'eau navigable additionnelle de 0,3 mètres ou un pied.

## Autres améliorations récentes

En février dernier, la Garde côtière

canadienne a révisé ses normes de dégagement sous quille, c'est-à-dire le dégagement qu'il faut laisser entre la quille et le lit du fleuve pour assurer la sécurité et la manoeuvrabilité des navires.

Depuis que cette révision a réduit le dégagement sous quille requis, les plus gros navires desservant le port de Montréal peuvent compter sur une profondeur d'eau navigable additionnelle de 15 à 23 centimètres (six à neuf pouces).



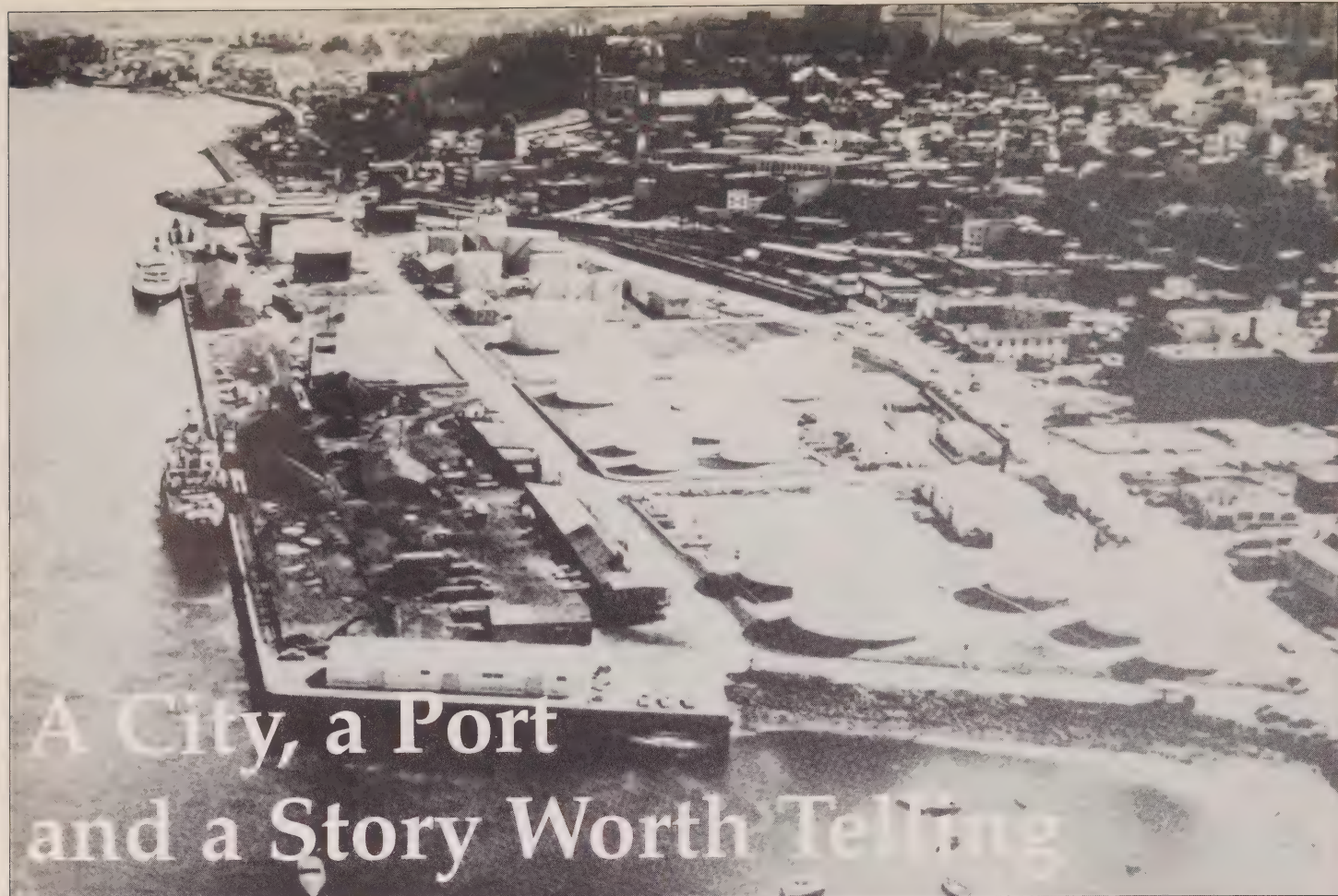
Ports Canada

d'oeuvre du projet sera la Garde côtière canadienne.

La décision d'aller de l'avant avec le projet suit la recommandation d'un comité du conseil d'administration de Ports Canada, formé pour étudier la question de la profondeur des eaux du Saint-Laurent. «Nous voyons dans une action aussi énergique un message clair à toute l'industrie en Amérique du Nord, celui que nous sommes bien déterminés à maintenir et à augmenter la force concurrentielle de nos ports sur tout le continent,» a dit M. Jean Michel Tessier, président-directeur général de la Société canadienne des ports.

La profondeur minimale reconnue du chenal





## A look back at the history and development of this important regional port.

by Rejean Dufour \*

**O**n July 24, 1992, the City of Chicoutimi celebrated its 150th anniversary with the opening of "Place Chicoutimi 92" on the site of the old Port of Chicoutimi. In the words of Lucien Gendron, president of Chicoutimi 92, "using the port area is unquestionably the most visually striking and perhaps the most significant aspect of this heritage conservation initiative".

To underline both this anniversary and Canada 125, Port Saguenay hosted a summer-long historical exhibition that told the story of the Port of Chicoutimi and its development. The exhibition, located in a former warehouse in the old port, was opened on July 3, 1992, by the president and chief executive officer of Canada Ports Corporation, Jean Michel Tessier, in the presence of city dignitaries, customers and present and former port employees.

The exhibition's designers chose to tell the story of port activity in Chicoutimi through photographs, artifacts and samples of products handled by the port. It consisted of three main sections: the first highlights the history of the Price Company's private wharf and the federal wharf; a technical section describes the construction of the Grande-Anse marine terminal in the municipality of La Baie and; a modern section covers present-day activities at Port Saguenay.

### Historical Section

The historical section illustrates the full impact port activities had on the development of the city and the Saguenay region. There are photographs showing the construction of the old Chicoutimi wharf (1930...), on the site of "Place Chicoutimi 92". The majestic Saguenay Fjord was a prime location for exports of furs and later wood, pulp and paper to Europe. Ships were anchored in the Chicoutimi basin during the fur trade era, between 1608 and 1842.

After establishing a sawmill at the mouth of the Chicoutimi River, William Price and his métis associate, Peter McLeod built the first wharf in the Chicoutimi basin, which became operational in 1843. Every year between 1850 and 1880, a score of ships, sail as well as steam, called at the port to load shipments of wood for England. These were small vessels of slightly over 600 tons, able to carry a cargo of some 18,000 beams each. The shallow channel obliged large ocean-going vessels to anchor at St. Fulgence, twelve kilometers downriver. The pulp was loaded onto barges, which were towed as far as St. Fulgence where the ships were anchored. Price Co. pulp was handled this way until the company's wharves were abandoned following the closure of the sawmill in 1901.

The first federal wharf was built in 1874, a short distance downstream on the south shore of the Saguenay River, at the foot of Wharf Street (Rue de Quai), just across from the cathedral. From 1870 on, regular service between Québec City and Chicoutimi was



provided by La Compagnie des Remorqueurs du St. Laurent. In the absence of good roads or any other means of rapid transportation, transportation by boat was essential as a fast, safe, low-cost way for the Saguenay colonists to import the manufactured goods they needed and export their own products.

In 1894, the wharf was enlarged and a landing stage built following the arrival of the railway and the increase in sea and rail traffic. The Compagnie Générale du Port de Chicoutimi, a subsidiary of the Pulp and Paper Company, was formed in 1904 and administered the port until 1935.

*Commercial activity flourished in the early years, with incoming cargoes of coal, sulphur and soda for the region's pulp and paper industry.*

Beginning in 1927, the federal government allocated \$500,000 for dredging around Chicoutimi to provide deepwater anchorage, with fourteen feet of water depth at low tide and thirty-five feet at a high tide. A large area of land was cleared on the banks of Saguenay for the construction of what would subsequently be called the Port of Chicoutimi.

When construction was completed in 1937, the port comprised of eighteen hectares of open air storage, 762 metres of berthing space, approximately 2,560 metres of railway track linked to Canadian National and a shed with a capacity of 2,440 square metres.

Commercial activity flourished in the early years, with incoming cargoes of coal, sulphur and soda for the region's pulp and paper industry. Outgoing cargoes consisted of exports of paper and lumber.

The National Harbours Board took over in 1936, and in the 1940s, the port's orientation began to change. Petroleum products replaced coal and the paper industry supplied both the Canadian and American markets, transporting its cargo by rail.

Stricter environmental standards in the late 1970s generated a great deal of pressure to move the 43 tanks from downtown Chicoutimi. The tanks were finally demolished in the mid-1980s and ownership of the



wharf was transferred to the municipality for conversion into a public square from which the entire population could enjoy a splendid view of the Saguenay River.

### Construction of the Grande-Anse Marine Terminal

In the early 1980s, the Port of Chicoutimi decided to relocate its activities downriver on the Saguenay, to Grande-Anse in the municipality of La Baie. Construction of the Grande-Anse marine terminal began on May 1, 1984 and the arrival of the first vessel, the M/V Mathilda Desgagnés, was celebrated on November 25, 1985.

This section of the exhibition highlights the advantages of the Grande-Anse site for navigation, its deep water and protection from the wind. The display shows how the eight cribs were built, floated and put into position at Grande-Anse.

### Port Saguenay Today

With all the changes of the past decade, the port recently changed its name to Port Saguenay, which more accurately reflects its new location.

The main users of the Grande-Anse marine terminal are forest companies, although the

recent diversification of traffic has turned it into a general-cargo terminal.

The exhibition gives a bird's eye view of the port's various users, the pulp and paper mill, sawmills, granite mine, turf farm and others. An island displaying samples of the main products manufactured at the port is one of the display's main focal points.

The future of the new terminal is to be expanded in the short term... and we should not forget to acknowledge the foresight of the planners, who learned the lessons of history and built far from urban centres.

By late summer 1992, "Place Chicoutimi 92" had welcomed thousands of visitors, who had taken the opportunity to learn about the history of Port Saguenay.

*\* Rejean Dufour is planning and development officer for Port Saguenay.*

### Bibliography

*Chicoutimi: la formation de la métropole régionale, par Russel Bouchard et Normand Perron, Société historique du Saguenay, 1987.*





Like a fine orchestra, all elements in the international transportation industry must work in concert to enhance the quality of the whole system.

by Peter Keller \*

**T**he title of the symposium, "Full Speed Ahead - Lets' Pave the Way to Prosperity" is a very fitting and appropriate theme especially on this 350 Anniversary of this marvellous city, Montréal. As the geographers will tell us, most major important commercial centres have historically been established where waterborne transportation is readily available. This was true 350 years ago and it is true today. Notwithstanding our fine railroads, notwithstanding the amazing technology that the air industry provides us, the most cost effective way to move commerce, especially the type of commerce endemic to Canada, forest products, metals, resource base products, is on the water.

On reflection then, perhaps I might prefer a symposium title - Full Speed Ahead - Lets' Float Our Way to Prosperity - as something a bit more akin to the marine sector. CAST, as you may know, is a container ship operator in the North Atlantic trade route operating between Montréal and Seebrugge, Belgium. We provide weekly container and bulk service between North America and Europe, serving both Canadian as well as US markets. In Europe, we serve the Continent, the Mediterranean as well as the United Kingdom and Scandinavia. We are also the owner and operator of a major stevedoring terminal in Montréal - CAST Terminal. We operate in excess of 150 trucks on a daily basis through our various trucking subsidiaries in both Canada and the United States. Finally we have a broad spectrum of sales and customer

service offices in North America and Europe to service our customer base. Our only port of call in North America is Montréal. Our vessels, which were built in the early nineteen eighties, are purpose built for the Saint Lawrence to Europe trade. As a company, we are totally committed to the Saint Lawrence, its trade with Europe, anchored at the Port of Montréal.

I say this not by way of commercial announcement but by way of introduction, so that you clearly understand that the competitiveness of Montréal and the long - term viability of the transportation network that serves this great city, and the international trade of not only the city, the province, the country of Canada, and the broader North American Continent, is a matter that goes to our very core. These are issues that have



critical impacts on our venture.

I have a great concern that the importance of transportation, the importance of a competitive and viable rail, road, air and maritime network - and its effect on the economic realities of international trade - are not always understood, nor appreciated. All too often people look to an airplane taking off from Dorval and complain of the noise. Trucks on the 2/20 are too loud, too fast, too large. Why must the ground rumble whenever a train goes by? Why must the ship, transmitting the Saint Lawrence throw such a wake as to rock my boat while I'm in my hunting blind? Yes, transportation is often large, maybe a bit noisy at times, it may even appear a bit disruptive. However, transportation, and effective logistics distribution networks, are in fact the way to prosperity. Without these sophisticated, competitive networks, our ability to trade is seriously inhabited.

Montréal today, because of its interesting mix of port facilities, two major railroads - Canadian National and Canadian Pacific, and truck routes moving east, west and south, enjoys maritime services far in excess of what a city or region this size could normally expect. It is the infrastructure and the commitment of major container operators such as CAST and Canada Maritime, using intermodal techniques, that have allowed Montréal and its port community to flourish as a major North American hub for containers in the Trans - Atlantic trades to Europe and the Mediterranean. It is, in my view, to the clear advantage of the community to do whatever it can in order to maintain a solid competitive international trading position through Montréal. If we accept the premise that waterborne transportation is one of the important engines for economic growth and vitality through international trade, then clearly the larger and more efficient the engine, the better it operates at full speed, the greater the opportunities for this economic growth and vitality.

I will tell you, as I have told many people over the past few years, the competitive position of this port, of this region, and therefore the positive effects that it impacts to the international trading economics of the region and the country are in trouble - serious trouble.

At this, our city's 350th Anniversary, the last thing that we need at a birthday party is a spoiler and for that I apologize. However, since this symposium is designed not only to highlight and discuss areas of interest, but also

to develop ideas and programs for the future, I don't feel too guilty about raising a warning at this otherwise festive birthday celebration.

## Why Are We in Trouble?

Simply stated, we are losing our competitive edge in the North American market. This is not a free trade issue, this is a simple, basic, technology and cost issue.

Cargo flows, in today's very competitive international market place, are very price sensitive. Pennies a pound - and sometime less - will cause changes in cargo flows. Price sensitivity, which of course emanates from costing, is critical.

Historically Montréal was a stable port with a stable work force and low costs - sometimes aided by the relative value of the Canadian dollar. While US ports with whom we compete for cargo such as Boston, New York and Baltimore had rapidly rising costs, labor unrest and poor productivity, Montréal was flourishing.

Today, however, our competitors in the US ports are raising productivity, appear to have solved many of their labor problems, are containing costs and developing effective technologies and initiatives that include private and public sector interests. The US ports are also generally seen by their communities to be utilities that help generate jobs and economic vitality. They are pump primers in the economic sense.

As we look around us, we see a myriad of potential problem that will require unified community solutions.

- During the winter months there is inadequate icebreaker support in the Gulf and the St. Lawrence River. The disruptions in schedules impact costs and service quality.

- Pilots - although important, necessary, members of the team are expensive. Costs continually escalate with no end in sight.

- Labor costs, especially for job security, are becoming excessive, especially as cargo volumes fall. We are in a Catch 22, where when volume fall, there is less work, therefore more of the labor force is on job security. Job security then must be paid for by the remaining cargo, which, with the added costs, becomes even more uncompetitive.

- Tug costs have increased 25 percent and now have a 10 percent surcharge on top of that.

- Taxes are constantly increasing, both direct and indirect. City assessments are up significantly, port assessments rise. Some

advocate user fees. Port profits derived from the lines activities and cargo which moves across our piers, gets appropriated.

- Multiple levels of bureaucracy add to the cost burdens. Ports are net utilities but are profit inspired corporations.

- Our rail and truck partners, who represent the other important links in the intermodal chain, have more than sufficient problems of their own to effect the overall competitiveness of the through intermodal costing. My colleagues in those segments are also working hard in their forums to provide new initiatives.

My list is by no means all encompassing, but rather I hope it gives you the flavor of why I believe we face serious trouble as we look to the future. The real issue for today however, is not just what is wrong but *how* do we fix it so we can keep our economic engineers running "Full Speed Ahead" on our way to Prosperity.

First and foremost, we need to develop some broad based understanding, on the part of all sectors, both public and private, of the absolute critical importance of transportation and the supports it renders to our international trading economy. It is one thing to be able to make speeches, it is another to make people actually believe. Once they believe, action will naturally follow.

The actions required to help restore Montréal to a position where long - term competitiveness is assured will be difficult, and requires some changes, many of them substantive from government, labor, the port community and certainly more innovation and hard work by the private sector.

We must all understand that the international transportation system is just that - a system as with any system, all elements must work in concert - like a fine orchestra, each individual instrument playing to enhance the quality of the whole - with each contribution.

So it is with our international transportation system. We need real music - not P.R. - we need real contribution from each instrument, we need real commitment, not individual profit taking or multiple taxation, if we are to move Full Speed Ahead to Prosperity!

*\* Peter Keller is president and chief executive officer, Cast North America (1983) Inc. This article is based on a speech given by the author to the Chamber of Commerce in Montréal.*



# One More Foot at the Port of Montréal

**MONTREAL - QUEBEC** - The Port of Montréal recently announced that it has signed a formal agreement with the Canadian Coast Guard to finance a maintenance dredging project that will increase by one foot (0.3 metres) the navigational depth of the St. Lawrence channel before the end of October.

"This additional foot of water can mean up to an extra 1,000 tonnes of cargo per vessel, or 100-120 boxes per containership," said Dominic J. Taddeo, president and chief executive officer of the Port of Montréal. "For our largest containerships, this can translate into \$150,000 of extra business per voyage."

The maintenance dredging project involves cleaning high spots along the bed of the channel and will increase the recognized minimal water depth between Montréal and Québec to 36 feet (11 metres) from 35 feet (10.7 metres).

"The extra foot will not only benefit the larger containerships calling at Montréal, but will also make the port much more attractive to dry bulk and grain ships of 50,000 tonnes capacity," Taddeo said.

"In essence, this maintenance dredging project will increase the competitiveness of the entire Port of Montréal system," added Andre Gingras, chairman of the board, Port of Montréal.

The Port of Montréal is the main financial contributor towards the project as it is at the upstream end of the channel, Gingras explained. "Our board of directors has approved a budget of \$1.15 million to cover the port's 75 percent financial share of the project," he explained.

Other contributors are the Canada Ports Corporation for the Port of Trois-Rivières, the Becancour Industrial Park and Port Corporation, and the Coast Guard, which will be responsible for all work related to the maintenance dredging.

The decision to proceed with the maintenance dredging follows a recommendation of a Canada Ports Corporation board of directors committee on the St. Lawrence River water depth. "We are hopeful that a strong action regarding the water depth in the St. Lawrence will send a clear signal to the industry in North

America about our commitment to maintain and enhance our ports' competitiveness, as viable gateways to every corner of this continent," said Jean Michel Tessier, president and chief executive officer, Canada Ports Corporation.

The recognized minimal water depth is based on the average of the lowest water levels, but the total water level for navigation is usually higher. For instance, over the last 25 years, the average water level in the Port of Montréal has remained close to 38 feet (11.58 metres), three feet (0.9 metres) above the minimum water depth of 35 feet (chart datum) established in 1952. The maintenance dredging will thus provide an extra foot of navigable water in all conditions, including low-water periods.



## Other Recent Improvements

In February of this year, the Canadian Coast Guard presented new standards for underkeel clearances. For security and manoeuvrability purposes, vessels are required to maintain this clearance, which is the distance between the ship's keel and the river bottom.

These underkeel clearances were reduced and now provide between six and nine inches of extra navigable water depth for the larger ships calling at the Port of Montréal.

The maintenance dredging project combined with the reduced underkeel clearance standards will

permit the biggest of vessels calling at the port to load more cargo in all conditions and means the port will be able to accommodate vessels with deeper draughts.

Meanwhile, the Port of Montréal has contributed \$200,000 towards the installation of 13 tide gaugers between Montréal and Québec which will measure and communicate water level at all times for the better utilization of water levels.

The tide gaugers will also permit the compilation of computer data, the goal of which will be to develop mathematical models in order to establish better water level forecasting.



# CP Rail System Introduces Regular Double-Stack Service Between Port of Montréal and Toronto

**TORONTO, ONTARIO** - CP Rail System has increased its containerized freight-handling capacity between Montréal and Toronto without adding to the number or lengths of trains it operates, or building new track.

CP Rail's new regular double-stack container train service between the Port of Montréal and Metropolitan Toronto began in June with 50 well-type cars provided by the Trailer Train Co. of Chicago under a rental agreement. Half are triple-platform cars and the remainder are single-platform cars.

"The new double-stack service responds to shippers' needs for efficient, damage-free transportation," said W.D. McEwen, general manager, international, CP Rail System.

"CP Rail is a key link in the Port of Montréal's intermodal system and this latest initiative is yet

another fine example of the continuous efforts of the system to improve its services," said Dominic Taddeo, president and chief executive officer, Port of Montréal.

Containers landed at the Port of Montréal and destined for the Toronto areas are double-stacked on CP Rail System train no. 929, while eastbound Trans-Atlantic containers are hauled from Metropolitan Toronto directly to the port on trains 928. Both trains operate overnight Monday to Friday.

The intermodal services department of CP Rail System arranges for truck pick-up and delivery of import-export containers anywhere in southern Ontario, linking shippers and receivers with markets around the world.

"Stacking containers in two levels on board our trains is another step in providing top-quality service to our customers,"

said Bill Hand, general manager, intermodal operations for CP Rail System in Toronto.

"Double-stacking improves the efficiency of intermodal train operations on any railroad, but our approach gives shippers an uncommon degree of flexibility in handling the wide range of load weights that pass through Canadian seaports and CP Rail's inland terminals," said Hand.

Each platform of the double-stack cars can handle loads up to 75,300

kilograms (166,000 pounds). A triple-platform car can carry any combination of loaded marine containers currently in use up to a maximum of 225 tonnes.

The single-platform cars are 21.9 metres (72 feet) long, and the triple-platform cars three times that length. Slack-free, permanent couplers link the platforms of the longer car, which rides on six sets of wheels.



## Election of New Executive Officers to ICHCA Council

At its May meeting, held in Helsinki, Finland, the International Council of ICHCA elected a new slate of Executive Officers to serve for the next two years.

The new chairman of ICHCA Council is Mike Butcher, previously international vice chairman of Council and a former chairman of ICHCA Australia from 1987 - 1988. His career has spanned 30 years in the Australian waterfront industry and he is currently the national marketing manager of Conaust Ltd,

the Australian-based Materials Handling Division of P & O.

The two new vice chairmen are Dr. Hassan Ansary and Ing. Paolo Rotelli. Dr. Ansary has just completed a term as the honorary international treasurer of ICHCA and is president of ICHCA Canada. He is the executive vice president of Ports Canada and is responsible for all commercial and technical activities of the Corporation, including strategic planning, marketing, economic studies, engineering and EDI. Mr. Rotelli, a former chairman of TASC, was technical chief then general manager of port installations at the Port of Livorno. He has considerable experience in the development of cargo-handling terminals and is presently a manage-

ment consultant for the Italian government, dealing with ports and the national general transport plan.

The new honorary international treasurer is Ingemar Lindblom, previously a vice chairman of the ICHCA Council and a former secretary and vice chairman of ICHCA Sweden. He has been Swedish representative at the International Council since 1977. Ingemar's background has been in logistics, transportation and shipping and, for the last eight years, he has been logistics manager at Hydro Plast AB in Sweden.



# Perspective

This page marks the last page of *Portus*. As the journal ceases to be published, it would be fitting to close with what has come to be a tradition with this page - viz; a broader look at the discipline of management, particularly in the port industry. Through deliberate debate - at time bordering on academic headiness - we challenged the conventional wisdom in many fields. It would be befitting the tradition to stay the course with this last "perspective".

The future is unpredictable - and now ever-more volatile. The walls of the global village close in; and with it our world shrinks. The isolationism of yesteryears has given way to a global interrelation based on multilateral trade. Survival of the fittest is now the only outcome.

In this column, we challenged our management practices. We undoubtedly exhibited a particular bent for the planning discipline because strategic planning by definition means risk taking. Contrary to a widespread belief, planning does not deal with future decisions. It deals with the futurity of present decisions.

Decisions exist only in the present. The question is not what an organization should do tomorrow. It is: what do we have to do today to be ready for an uncertain future. Through the pages of this column, we have offered a few thoughts - sometimes clichés, sometime provocative - all with a simple purpose: to stimulate fresh thinking.

Decision making is essentially a time machine which synchronizes into one present a great number of divergent time spans. The test of a plan, thus, is not how good the plan is itself. The test is whether management actually commits resources to action which will bring results in the future. Unless this is being done, there is no plan, there are only promises and hopes.

Planning is necessary because we can make decisions only in the present. And yet, we cannot make decisions *for* the present alone. Planning is not an attempt to eliminate risk.

The central fact about economic activity is that, by definition, it commits present resources to the future - to highly uncertain expectations. To take risk is, therefore, the essence of economic activity. But while it is futile to try to eliminate risk, it is essential that the risks taken be the right ones. The end result of successful planning must be a capacity to take a greater risk to improve entrepreneurial performance.

To conclude, the planning is the continuous process of making present entrepreneurial decisions systematically and with the best possible knowledge of their futurity. It is our hope that this column has made a contribution, no matter how small, to the advancement of the entrepreneurial spirit and management practices in this industry and others. We close hoping that the sparks that have been kindled will glow for long.

Avec la présente page se termine la carrière de *Portus*. Il semble approprié de clore ce numéro en suivant la tradition qui faisait de cette chronique un vaste panorama de la discipline du management, et plus particulièrement de la gestion portuaire. En suscitant délibérément le débat, planant parfois à des hauteurs académiques, nous avons défié la sagesse habituelle sous plusieurs aspects. Allons donc jusqu'au bout dans une dernière «perspective».

L'avenir est plus imprévisible et incertain que jamais. Les frontières du village global se rapprochent et notre monde, par conséquent, rétrécit. L'isolationnisme d'antan a cédé le pas à des interrelations mondiales où les échanges commerciaux se font entre de multiples joueurs, échanges qui ne peuvent avoir pour issue que la survie du plus fort.

Nous avons dans cette rubrique remis en question nos pratiques de gestion. Indubitablement, nous avons témoigné d'un vif penchant pour une planification disciplinée, parce que prévoir des stratégies signifie, par définition, prendre des risques. Or, contrairement à ce qu'on croit généralement, planifier ne consiste pas à prendre des décisions pour l'avenir mais à évaluer la «futurité» des décisions du présent.

Une décision n'existe que dans le présent. Il ne s'agit donc pas de savoir ce qu'une organisation devrait faire demain, mais ce qu'elle doit faire aujourd'hui pour être prête à affronter un avenir incertain. Nous vous avons offert dans cette rubrique quelques réflexions, parfois des clichés, mais aussi des réflexions provocatrices. Toujours avec un seul but, celui de susciter des idées nouvelles.

Dans son essence, la prise de décisions est une machine à comprimer le temps; elle synchronise dans un seul «présent» un grand nombre d'espaces temporels divergents. Le test qui dira si un «bon» plan est efficace ne se fait qu'au moment où les gestionnaires engagent des ressources pour sa réalisation plus tard. Sinon, il n'y a pas vraiment de plan, mais uniquement des promesses et des espoirs.

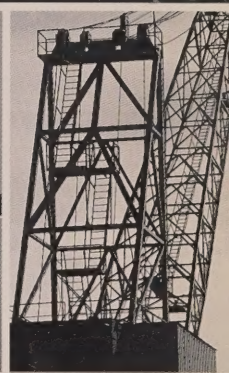
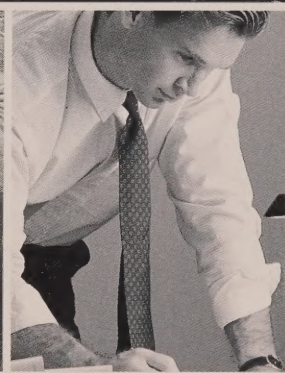
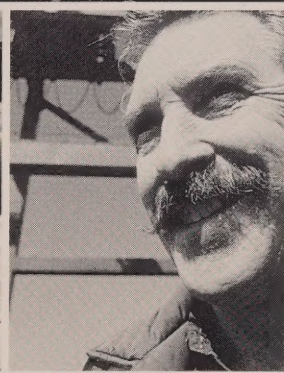
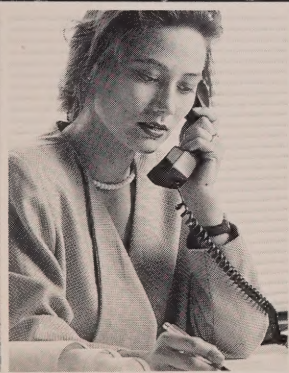
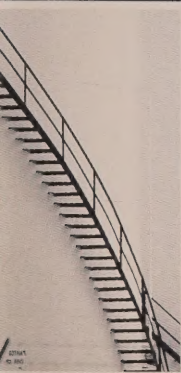
Il faut une planification parce que les décisions ne se prennent que dans le présent. Mais une décision ne peut pas se prendre uniquement pour le présent. Planifier, ce n'est pas chercher à éliminer les risques.

L'activité économique a comme facteur crucial qu'elle engage pour l'avenir les ressources du présent, et en vertu d'expectatives hautement incertaines. Alors qu'il serait futile de vouloir éliminer tout risque, il faut toutefois que les risques encourus soient les bons. Ultiment, une planification fructueuse doit donner la capacité de prendre un risque plus grand pour améliorer le rendement de l'entreprise.

Enfin, la planification est un processus décisionnel continu et systématique, dans la connaissance la plus complète possible de sa «futurité», c'est-à-dire ses conséquences futures. Nous souhaitons que notre rubrique ait contribué, ne fût-ce que modestement, au progrès de l'esprit d'entreprise et des pratiques de gestion dans notre industrie et d'autres. En tournant la page, nous conservons l'espoir que les étincelles ainsi allumées luiront encore longtemps.

Hassan J. Ansary  
Editor-in-Chief  
Rédacteur en chef





*Systèmes intermodaux pour les marchés mondiaux*



Société canadienne des ports



